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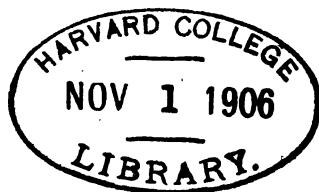
METROPOLITAN
BOROUGH COUNCILS
ELECTIONS.

*A GUIDE TO THE ELECTION
OF THE
MAYOR, ALDERMEN AND COUNCILLORS
OF
METROPOLITAN BOROUGHHS.*

BY JOHN HUNT,
OF THE MIDDLE TEMPLE AND WESTERN CIRCUIT, BARRISTER-AT-LAW,
Author of "London Local Government" and "The London Government Act, 1899."

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PREFACE.

THE London Government Act, 1899, makes only indirect provision for the qualification and for the election of the mayor, aldermen, and councillors of the metropolitan boroughs into which, under the Act, the county of London has been divided. Subject to certain modifications, it applies to the mayor and aldermen of the new boroughs the provisions of the Local Government Act, 1888, with respect to the chairman of the county council and the county aldermen ; and the latter Act, in turn, applies to the chairman of the county council and the county aldermen, with many exceptions and modifications, the provisions of the Municipal Corporations Act, 1882. With regard to borough councillors the Act is still more vague, for it merely applies to them “the law relating to the constitution and proceedings of administrative vestries, and to the electors and members thereof.” The result is that, in order to ascertain the law upon the subject, it is necessary to search through, dissect, and piece together a bewildering entanglement of Acts, and sections and sub-sections of Acts, rules, orders, and cases, with endless provisos, modifications, and exceptions, upon the interpretation of which even the experts are not unfrequently at variance. And yet, *ignorantia juris non excusat* ! Everyone is presumed to know the law !

My aim in the present book is to focus the effect of the various statutes, rules, and cases relating to the

subject, and to give in a convenient and intelligible form the law regulating the election of the mayor, aldermen, and councillors of metropolitan boroughs. I have avoided discussing the remoter refinements of election law, but have endeavoured to state concisely and clearly everything which a candidate or officer is likely to require in the course of an election. The rules for the conduct of the election are contained in the Metropolitan Borough Councillors Election Order, 1900. This Order is set out verbatim in Chapter V. As it is only just issued, time does not permit of more than a few explanatory notes upon it. But the rules themselves are for the most part very clear, and require but little explanation. The Metropolitan Boroughs (First Election and First Meeting) Order in Council is set out in an Appendix.

The date of every case is given, the numerous statutes to which it is necessary to refer are all cited by their short titles, and for the sake of brevity when citing the Municipal Corporations Act, 1882, the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the Local Government Act, 1888, and the Local Government Act, 1894, I have used the following abbreviations respectively, viz. :—M. C. A. 1882; M. E. C. I. P. A. 1884; L. G. A. 1888; and L. G. A. 1894.

JOHN HUNT.

5, PUMP COURT, TEMPLE,
August, 1900.

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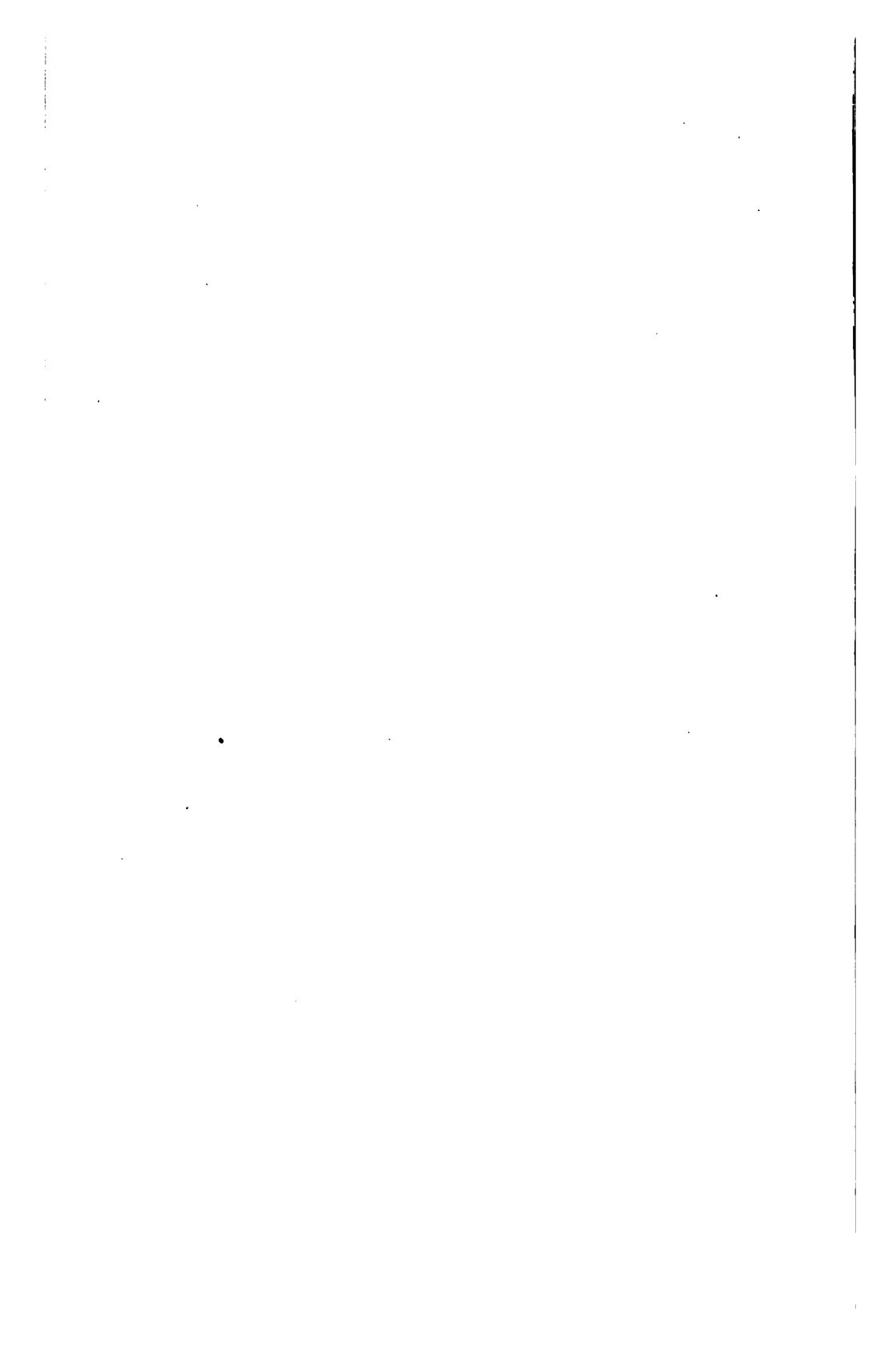


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METROPOLITAN BOROUGH COUNCILS ELECTIONS.

CHAPTER I.

METROPOLITAN BOROUGHS.

EXCLUSIVE of the City of London; of Penge, which has been constituted an urban district in the county of Kent; of a detached part of Clerkenwell, which has been added to the county of Middlesex; and of a detached part of Putney, which has been added to the county of Surrey; but inclusive of a detached part of Mitcham, Surrey, which has been annexed to the parish of Tooting Graveney, and of the parish of South Hornsey, Middlesex, which has been united with the parish of Stoke Newington, the whole of the administrative county of London has, by the London Government Act, 1899, and Orders in Council under the Act, been divided into twenty-eight boroughs, called metropolitan boroughs. Each of these boroughs has been divided into wards, and a number of councillors fixed for each borough and assigned to each ward, the number being in every case divisible by three, in accordance with the provisions of sect. 2 (2) of the Act. The following statement shows the names and constituent

METROPOLITAN BOROUGHS.

parishes of the respective boroughs, the wards into which they are divided, and the number of councillors fixed for each borough and assigned to each ward:—

BOROUGH.	Constituent Parishes.	Wards.	No. of Councillors.
BATTERSEA	Battersea	No. 1. Nine Elms .. No. 2. Park .. No. 3. Latchmere .. No. 4. Shaftesbury .. No. 5. Church .. No. 6. Winstanley .. No. 7. St. John .. No. 8. Bolingbroke .. No. 9. Broomwood ..	9 6 6 6 6 6 3 6 6
			54
BERMONDSEY	Rotherhithe	No. 1. Rotherhithe .. No. 2. Rotherhithe .. No. 3. Rotherhithe ..	6 6 3
	Bermondsey	No. 1. Bermondsey .. No. 2. Bermondsey .. No. 3. Bermondsey .. No. 4. Bermondsey .. No. 5. Bermondsey .. No. 6. Bermondsey ..	6 6 6 6 3 3
	St. Olave, and St. Thomas, and St. John, Horselydown.	St. Olave .. St. Thomas .. St. John	3 3 3
			54
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			30
CAMBERWELL....	Camberwell	No. 1. The West .. No. 2. Addington .. No. 3. Town Hall .. No. 4. St. George's .. No. 5. Coburg .. No. 6. Marlborough .. No. 7. North Peckham .. No. 8. Goldsmith .. No. 9. Clifton ..	3 3 3 3 3 3 3 3 3

METROPOLITAN BOROUGHHS.

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METROPOLITAN BOROUGHS.

BOROUGH.	Constituent Parishes.	Wards.	No. of Councillors.
FULHAM	Fulham	Baron's Court Margravine Munster..... Lillie Walham Town Hurlingham Sands End	6 3 6 6 3 3 3 6 36
GREENWICH	Greenwich	North..... Marsh South-East	3 6 3
	Charlton and Kid-brooke. St. Nicholas, Deptford.	South..... West North-West	3 3 3
		Charlton and Kid-brooke. St. Nicholas, Deptford.	6 3
			30
HACKNEY	Hackney	Stamford Hill West Hackney..... Kingsland..... Hackney The Downs	9 6 6 9 6
		South Hackney	6
		Homerton	9
		Clapton Park	9
			60
HAMMERSMITH ..	Hammersmith	No. 1	6
		No. 2	9
		No. 3	6
		No. 4	3
		No. 5	6
		No. 6	3
		No. 7	3
			36

METROPOLITAN BOROUGHS.

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BOROUGH.	Constituent Parishes.	Wards.	No. of Councillors.
HAMPSTEAD	Hampstead	No. 1. Town No. 2. Belsize No. 3. Adelaide No. 4. Central..... No. 5. West End .. No. 6. Kilburn No. 7. Priory	6 6 6 6 6 6 6 42
HOLBORN	Liberty of Saffron Hill, Hatton Garden, Ely Rents and Ely Place. St. Andrew Holborn-above-Bars, Furnival's Inn, Staple Inn and Gray's Inn. St. George the Martyr St. Giles - in - the - Fields and Lincoln's Inn. St. George, Bloomsbury.	Saffron Hill	3
		North St. Andrew .. South-east St. Andrew St. George the Martyr North St. Giles Central St. Giles Lincoln's Inn North Bloomsbury .. South Bloomsbury ..	3 9 3 3 6 6 3 6 42
ISLINGTON	Islington	No. 1. Tufnell No. 2. Upper Holloway. No. 3. Tollington .. No. 4. Lower Holloway. No. 5. Highbury .. No. 6. Mildmay No. 7. Thornhill No. 8. Barnsbury .. No. 9. St. Mary No. 10. Canonbury .. No. 11. St. Peter ...	6 6 6 6 6 6 6 3 3 6 6 60

METROPOLITAN BOROUGHS.

BOROUGH.	Constituent Parishes.	Wards.	No. of Councillors.
KENSINGTON	Kensington	St. Charles Golborne Norland Pembroke Holland Earl's Court Queen's Gate Redcliffe Brompton	6 6 6 6 9 6 6 6 9
			60
LAMBETH	Lambeth	Marsh Bishop's Prince's Vauxhall Brixton Stockwell Herne Hill Tulse Hill Norwood	6 6 9 6 6 6 6
			60
LEWISHAM	Lee..... Lewisham	Church Manor South No. 1. Blackheath .. No. 2. Lewisham Village No. 3. Lewisham Park No. 4. Brockley No. 5. Catford..... No. 6. Forest Hill .. No. 7. Sydenham ..	3 3 3 3 3 3 3 3 3 6
			42
PADDINGTON	Paddington	Lancaster Gate East Lancaster Gate West Westbourne Harrow Road Maida Vale Church Hyde Park Queen's Park	6 6 9 9 6 9 9 6
			60

METROPOLITAN BOROUGHS.

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Borough.	Constituent Parishes.	Wards.	No. of Councillors.
POPLAR	Bow	North West Central South Bromley, St. Leonard	3 3 3 3
		North-West South-West North-East Central South-East Poplar	3 3 3 3 3 3
		North-West West East Millwall Cubitt Town	3 3 3 3 3
			42
ST. MARYLEBONE	St. Marylebone	No. 1. Hamilton Terrace. No. 2. St. John's Wood Terrace. No. 3. Church Street No. 4. Dorset Square and Regent's Park. No. 5. Bryanston Square. No. 6. Portman No. 7. Park Crescent No. 8. Langham No. 9. Cavendish	3 3 9 6 9 9 6 6 9
			60
ST. PANCRAS	St. Pancras	No. 1 No. 2 No. 3 No. 4 No. 5 No. 6 No. 7 No. 8	9 6 9 6 9 6 6 9
			60

BOROUGH.	Constituent Parishes.	Wards.	No. of Councillors.
WESTMINSTER— <i>contd.</i>	St. Anne, Westminster. St. Clement Danes and St. Mary-le-Strand, Liberty of the Rolls and Precinct of the Savoy.	St. Anne Strand	3 3 60
WOOLWICH	Woolwich	No. 1. Dockyard .. No. 2. St. Mary's .. No. 3. River .. No. 4. St. George's .. No. 5. Burrage .. No. 6. Herbert .. No. 7. Glyndon .. No. 8. St. Margaret's .. No. 9. Central .. No. 10. St. Nicholas .. No. 11. Eltham	3 3 6 3 3 3 3 3 3 3 3 36
Eltham			

CHAPTER II.

METROPOLITAN BOROUGH COUNCILS.

INCORPORATION OF BOROUGH COUNCILS.—By sections 1 and 2 of the London Government Act, 1899, and Orders in Council made under the Act, a council, consisting of a mayor, aldermen, and councillors, is established and incorporated for each metropolitan borough, under the name of “The Mayor, Aldermen, and Councillors of the metropolitan borough of —.” The number of councillors assigned to each borough is stated in Chapter I., *ante*. The number of aldermen is one-sixth of the number of councillors, and the total number of aldermen and councillors for each borough may not exceed seventy. (London Govt. Act, 1899, sec. 2 (3).)

QUALIFICATIONS OF MAYOR AND ALDERMEN.—The London Government Act, 1899, sec. 2 (4), enacts that “Except as otherwise provided by or under this Act, the provisions of the Local Government Act, 1888, with respect to the chairman of the county council and the county aldermen respectively, shall apply to the mayor and aldermen of a metropolitan borough respectively, and for this purpose, references in that Act to the chairman of the county council and to county aldermen shall be construed as references to the mayor and aldermen of the borough.” It is contended by some that the effect of this provision is to require that a person, to be elected mayor or an alderman of a metropolitan borough, shall be qualified

to be elected chairman of the county council or a county alderman, and that a person so qualified in any part of London is qualified to be elected mayor or an alderman of any metropolitan borough, irrespective of whether his qualification is within the area of the borough for which he seeks election or not. But the Local Government Act, 1888, by secs. 2 and 75, merely applies to the chairman of the county council and county aldermen, with some slight modifications, the provisions of the Municipal Corporations Act, 1882, which, by secs. 14 and 15, require that a person to be elected mayor or an alderman of a municipal borough outside London shall be an alderman or councillor of the borough for which he is elected, or qualified to be such. It is therefore submitted that, on the true construction of the London Government Act, 1899, and the applied provisions of the Local Government Act, 1888, and of the Municipal Corporations Act, 1882, a person to be qualified to be elected mayor or an alderman of a metropolitan borough must be qualified within the borough for which he is elected, as follows:—

Qualification of mayor.—The mayor must be a fit person elected by the council from among—

- (a) the aldermen of the borough; or
- (b) the councillors of the borough; or
- (c) persons who, though not aldermen or councillors of the borough, are qualified to be such.

An outgoing alderman is eligible; and a person ceasing to hold the office of mayor, unless disqualified to hold the office, is re-eligible. (London Govt. Act, 1899, sec. 2 (4); L. G. A. 1888, secs. 2, 75; M. C. A. 1882, secs. 7, 15, 37.)

A councillor or an alderman who is elected to and accepts the office of mayor does not thereby vacate his office of alderman or councillor, and conversely a mayor who is elected to and accepts the office of alderman or councillor does not thereby vacate his office of mayor.

Qualification of borough aldermen.—The borough aldermen must be fit persons elected by the mayor and borough councillors. A person is not qualified to be elected a borough alderman unless he is—

- (a) a borough councillor ; or
- (b) qualified to be a borough councillor ; or
- (c) a peer owning property in the borough.

If a borough councillor is elected to and accepts the office of borough alderman, he vacates his office of councillor. And if a borough alderman is elected to and accepts the office of borough councillor, he vacates his office of alderman. But the person elected only vacates his office of councillor or alderman when, and not till, he makes and signs a declaration accepting the office of alderman or councillor, as the case may be. (L. G. A. 1888, sec. 2 ; M. C. A. 1882, sec. 14 ; *Reg. v. Mayor, &c. of Bangor* (1886), 18 Q. B. D. 349 ; 54 L. J. Q. B. 326. See also *Reg. v. Douglas*, (1898) 1 Q. B. 560 ; 67 L. J. Q. B. 406.)

Clerks in holy orders and other ministers of religion are not disqualified for being elected or being borough aldermen. (L. G. A. 1888, sec. 2.)

A peer is disqualified for being a parliamentary elector or a member of the House of Commons, and he is not entitled to be registered on any register of electors in respect of the ownership of property. (See *Drax v. Ffooks*, (1896) 1 Q. B. 238 ; 65 L. J. Q. B. 270.) But if he possesses the necessary occupation or residential qualification within a borough he is entitled to be registered and to vote as a borough elector, and to be elected a borough councillor of that borough. And in any borough where he has no such qualification, but owns property, a peer is, as already stated, qualified for election as mayor or alderman of the borough, but not as councillor, in respect of the ownership of such property.

A person ceasing to hold the office of borough alderman

is, unless disqualified to hold the office, re-eligible. (M. C. A. 1882, sec. 37.)

QUALIFICATIONS OF BOROUGH COUNCILLORS.—To be qualified to be elected or to be a borough councillor a person must either—

- (1) be a parochial elector of some parish in the borough where he is a candidate; or
- (2) have, during the whole of the twelve calendar months preceding the election, resided in the borough;

and must also be—

- (a) a British subject, born or naturalised;
- (b) of full age, *i.e.*, twenty-one years or upwards; and
- (c) of the male sex.

(London Govt. Act, 1899, sec. 2 (1), (5); L. G. A. 1894, secs. 23 (2), 31 (1), and 46 (1).)

Residence.—In order to qualify by residence, a person must have, during the whole of the twelve calendar months preceding the election, at least a sleeping apartment in the borough, though it is not necessary that he should live and sleep there uninterruptedly. (*Powell v. Guest* (1864), 18 C. B. N. S. 72, at p. 80; 34 L. J. C. P. 69; *Taylor v. St. Mary Abbott's, Kensington, Overseers* (1870), L. R. 6 C. P. 309; 40 L. J. C. P. 45; *Bond v. St. George's, Hanover Square, Overseers* (1870), L. R. 6 C. P. 312; 40 L. J. C. P. 47.) Thus, a person whose ordinary and family residence was in Sussex, but who continuously rented during the whole of the twelve calendar months preceding the election a bedroom with the use of a sitting-room in a house in Lewisham, where he slept on an average three times a week, and had from time to time such meals as he required, was held to be qualified by residence for election to the Lewisham vestry, although

he had been absent in America and elsewhere for short intervals during the qualifying twelve months. (*Stanford v. Williams* (1899), 80 L. T. 490; 15 T. L. R. 319.) Under the Municipal Corporations Act, 1882, a person who lived in London, but also had an office and rooms in Exeter, where he transacted his business, took his meals, and slept when in the latter town, was held to have sufficiently resided in Exeter as well as in London. (*Reg. v. Exeter (Mayor, &c. of), Wescomb's Case* (1868), L. R. 4 Q. B. 110; 19 L. T. N. S. 397.)

But where a person was absent for some years in Australia, though he always intended to return to England, where his things were stored in a room which was kept for his separate use, and he returned to England and slept in the room during the last five weeks of the qualifying twelve months, it was held that he had not qualified by residence for registration as an elector under the Municipal Corporations Act, 1882. (*Ward v. Maconochie* (1891), 7 T. L. R. 536.) The residence must be *bonâ fide*, and not merely colourable. Payment of a nominal sum for the occasional use of a bedroom is not sufficient. (*Whithorn v. Thomas* (1844), 7 M. & G. 1; 14 L. J. C. P. 38.)

If a person debars himself of the liberty of returning to a dwelling, he cannot be said to have had a legal residence there. Imprisonment beyond the borough, or absence from the borough in fulfilment of an engagement, are a disqualifying break of residence. (*Powell v. Guest, supra*, p. 14; *Ford v. Pye* (1873), L. R. 9 C. P. 269; 43 L. J. C. P. 21; *Ford v. Hart* (1873), L. R. 9 C. P. 273; 43 L. J. C. P. 247; *Ford v. Drew* (1879), 5 C. P. D. 59; 49 L. J. C. P. 172; *Beal v. Exeter Town Clerk* (1887), 20 Q. B. D. 300; 57 L. J. Q. B. 128.)

For the purpose of the qualification of a person to be elected or to be a councillor of the first council of a metropolitan borough, residence before the day on which the first election of borough councillors is held in any place which will be included in a borough is deemed to

be residence in that borough. (Met. Boros. (First Election and First Meeting) O. in C., 1900, cl. 3, *post*, Appendix.)

Where a person elected borough councillor is qualified by residence at the time of his election, his subsequent removal from the borough during the period for which he is elected would not, it is submitted, disqualify him for continuing to act in the office during the remainder of that period.

Re-eligibility of borough councillor.—A person ceasing to hold the office of borough councillor, unless disqualified to hold the office, is re-eligible (Met. Boro. Councillors Election Order, 1900, 6th Schedule, *post*, Ch. V.), even though he has vacated his seat through absence from the meetings of the borough council for more than six months consecutively. (See *post*, p. 24.)

DISQUALIFICATIONS FOR BEING MAYOR, ALDERMAN OR COUNCILLOR.—A person is disqualified for being elected mayor, alderman, or councillor of a metropolitan borough, if he—

- (a) is an infant or an alien (see *infra*) ; or
- (b) has within twelve months before his election, or since his election, received union or parochial relief (see *post*, p. 18) ; or
- (c) has, within five years before his election, or since his election—
 - (1) been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon (see *post*, p. 19) ; or
 - (2) been adjudged bankrupt, or made a composition or arrangement with his creditors (see *post*, p. 20) ; or

- (d) holds any paid office under the council; or
- (e) is, with certain exceptions, concerned in any bargain or contract entered into with the council, or participates in the profit of any such bargain or contract, or of any work done under the authority of the council (see *post*, pp. 20, 23); or
- (f) is a woman.

(London Govt. Act, 1899, s. 2 (1), (5); L. G. A. 1894, ss. 31 (1) and 46 (1).)

Infant. (See *supra*.)—An infant is a person who is less than twenty-one years of age. It is not necessary that a person should be of full age during the whole of the twelve calendar months preceding the election (see *Powell v. Bradley* (1864), 18 C. B. N. S. 65; 34 L. J. C. P. 67; and *Hargreaves v. Hopper* (1875), 1 C. P. D. 195; 45 L. J. C. P. 105); and, though there is no direct authority upon the point, it is submitted that an infant who will attain his majority on or before the day of election is qualified to be nominated for election as a borough councillor. (See *Powell v. Bradley* (1864), 18 C. B. N. S. 65; 34 L. J. C. P. 67; and *Hargreaves v. Hopper* (1875), 1 C. P. D. 195; 45 L. J. C. P. 105.)

Alien. (See *supra*.)—Every person born within the British dominions, whether of British or foreign parents (except the children of foreign ambassadors), is, by the common law of England, a natural-born British subject. By the Foreign Protestants' Naturalization Act, 1708, and the British Nationality Act, 1730, all children born out of the liegeance of the Crown, whose fathers are natural-born British subjects at the time of such children's births, are declared to be British subjects; and all children born out of the liegeance of the Crown, whose fathers were, by virtue of the last-mentioned Act, natural-born British subjects, are, by the British Nationality Act, 1772, declared to be British subjects. This status, however, does not extend beyond grandchildren. (*De Geer v.*

Stone (1882), 22 Ch. D. 243.) Residence alone, however long, will not entitle an alien to be elected a member of a borough council. But, by the Naturalization Act, 1870, ss. 7 and 9, after five years' residence in British dominions, he may apply for a certificate of naturalization, and on obtaining it and taking the oath of allegiance he becomes entitled to all political rights and privileges. An alien may also be granted letters of denization by the Crown, whereupon he becomes a British subject, and may be qualified for the franchise and to be elected a member of a borough council. (See *Middlesex* (1804), 2 Peckwell, 117.) Persons born in Hanover before the Queen's accession, and not naturalized, are aliens, though resident in England. (*Isaacson v. Durrant* (1886), 17 Q. B. D. 54; 55 L. J. Q. B. 331.)

Parochial relief. (See *ante*, p. 16.)—Parochial relief to a man's wife, or to his child under the age of sixteen, not being blind, or deaf, or dumb, is considered as given to the husband or father, and relief to a child under the age of sixteen of a widow is considered as given to the mother. (Poor Law Amend. Act, 1834, sec. 56.) Relief to the father does not disqualify the son (*Reg. v. Ireland* (1868), L. R. 3 Q. B. 130; 37 L. J. Q. B. 78); and relief to a grandchild does not disqualify a grandparent. (*Oldham* (1869), 1 O'M. & H. 160.)

Employment by the guardians of the poor by way of relief, where the amount paid exceeds the value of the work done, is parochial relief. (*Magarill v. Whitehaven* (1885), 16 Q. B. D. 242; 55 L. J. Q. B. 38.) But payment by the guardians of the school fees for the child of a poor person does not disqualify the parent. (Elementary Education Act, 1876, sec. 10.)

Vaccination, or the surgical or medical assistance incident to vaccination, performed by a public vaccinator, is not deemed to be parochial relief. (Vaccination Act, 1867, sec. 26.) The admission of a person suffering from an

infectious disease into any hospital provided by the **Metropolitan Asylums Managers**, is not considered to be parochial relief to any person, or the husband or parent of any person ; nor is any person, or his or her parent or husband, by reason thereof, deprived of any right or subjected to any disqualification. (Public Health (London) Act, 1891, sec. 80 (4).) Other medical relief at the expense of the poor rate is parochial relief, and will therefore disqualify a person receiving it for being elected or being a member of a borough council (see *Oldham* (1869), 1 O'M. & H. 160), though by the **Medical Relief Disqualification Removal Act**, 1885, the receipt of medical or surgical assistance at the expense of the poor rate is not a disqualification for being registered or voting as a parochial elector. Attendance of a midwife at the expense of the poor rate is "medical assistance" within the meaning of that Act. (*Honeybone v. Hambridge* (1886), 18 Q. B. D. 418 ; 56 L. J. Q. B. 46.)

Convicted of any crime. (See *ante*, p. 16.)—It will be observed that the period of five years during which a person convicted of a crime is disqualified for being a member of a borough council, runs from the date of the conviction and not from the expiration of the sentence, and that he must have been sentenced to *hard labour* or some greater punishment *without the option of a fine*. A member of the London School Board who was convicted and imprisoned in Ireland under section 2 of the Criminal Law of Procedure (Ireland) Act, 1887, for unlawfully taking part in a criminal conspiracy in a proclaimed district, was held to have been convicted of a crime which disqualified him for being a member of the Board, and his office to have become vacant pursuant to Schedule 2, Part 1, r. 14, of the Elementary Education Act, 1870. (*Conybeare v. London School Board*, (1891) 1 Q. B. 118 ; 60 L. J. Q. B. 44.)

Bankruptcy, composition or arrangement with creditors. (See *ante*, p. 16.)—Where a person is disqualified for being elected or being a member of a borough council by being adjudged bankrupt or making a composition or arrangement with his creditors, the disqualification ceases—

(1.) In case of bankruptcy :—

- (a) when the adjudication is annulled; or
- (b) when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part;

(2.) In case of composition or arrangement, on payment of his debts in full.

(L. G. A. 1894, sec. 46 (4), (9).)

It is submitted that these provisions as to bankruptcy, &c. supersede similar provisions of the Bankruptcy Acts, 1883, sec. 32, and 1890, sec. 9.

An arrangement made by a partnership firm with the creditors of the firm disqualifies every member of the partnership for being a member of a borough council. (*Ward v. Radford* (1895), 11 T. L. R. 587. See also *Aslatt v. Southampton Corporation* (1880), 16 Ch. D. 143; *Reg. v. Cooban* (1886), 18 Q. B. D. 269; 56 L. J. M. C. 33; *Ex parte Atherton* (1886), 2 T. L. R. 631; decided under differently worded provisions of other Acts.)

Where a petition was presented against the election to a school board of an undischarged bankrupt, and, an interim injunction having been granted, he gave notice of his intention to oppose the petition, but afterwards gave notice of non-opposition, his election was declared void, and he was held liable for the petitioner's costs up to the date of the notice of non-opposition. (*Re Linthwaite School Board Election Petition, Lockwood v. Whittell* (1899), 43 Sol. J. 532.)

Bargains and contracts which disqualify for membership of borough council. (See *ante*, p. 17.)—Interest in a con-

tract with the borough council, though the contract be not under seal and not binding on the council, disqualifies a person for membership of the council. (*Reg. v. Francis* (1852), 18 Q. B. 526; 21 L. J. Q. B. 304.) A contract with a council made by a trustee on behalf of another person disqualifies that other person. (*Simpson v. Ready* (1844), 12 M. & W. 736; 13 L. J. Ex. 193; see also *Miles v. McIlwraith* (1883), 8 App. Cas. 120; 52 L. J. P. C. 17.)

Where an alderman of a municipal borough, in the course of his trade, sold some iron railings to a person for work which the latter had contracted to execute for a town council, it was held that he had, not such an interest in a contract with the council as to render him liable to penalties. (*Le Feuvre v. Lankester* (1854), 3 E. & B. 530; 23 L. J. Q. B. 254.) But a member of a local board who erected scaffolding to enable a person to alter certain gas fittings which the latter had contracted with the board to alter, was held to be interested in a contract with the board. (*Tomkins v. Jolliffe* (1887), 51 J. P. 24.) And where contractors employed a member of a local board to do joinery work in connection with a contract with the board, the member was held to have an interest in the contract, and to be liable to penalties for acting when disqualified, although he withdrew his bill and refused payment. (*Nutton v. Wilson* (1889), 22 Q. B. D. 744; 58 L. J. Q. B. 443.) A member of a local board who was reimbursed by the board for work done by him at the request of the board's surveyor was held to be disqualified and liable to penalties. (*Fletcher v. Hudson* (1881), 7 Q. B. D. 611; 51 L. J. Q. B. 48.) A person holding the appointment of chemist to the town council of a municipal borough was elected a member of the council. At the time of his election, money was due to him from the council, and afterwards four-pennyworth of oil was sold by his assistant to the council. He was held to be disqualified. (*Nell v. Longbottom*, (1894) 1 Q. B. 767; 63 L. J. Q. B.

490.) A trustee of a turnpike road who let his horses and carts for payment to a contractor with the trustees for work upon the road was held liable to penalties (*Towsey v. White* (1826), 5 B. & C. 125), and so was a poor law guardian who sold provisions to the master of the workhouse. (*West v. Ambrose* (1822), 5 B. & Ad. 328.) A member of a school board who, previously to his election, printed for the returning officer documents relating to the election, which were subsequently paid for by the board, was held to be disqualified. (*Tanfield v. Reynolds* (1875), 39 J. P. 293.) And a person who took from his brother the assignment of a contract with a metropolitan vestry by way of security for money advanced for the purposes of the contract, was held to be disqualified for being elected or being a member of the vestry. (*Hunnings v. Williamson* (1883), 11 Q. B. D. 533; 52 L. J. Q. B. 416.)

Interest in the contract continues so long as the contract exists. (*Todd v. Robinson* (1884), 14 Q. B. D. 739; 54 L. J. Q. B. 47.) And the assignment of a contract with a council by a contractor before his election, without the privity of the council, does not remove the disqualification, as his liability under the contract remains. (*Cox v. Ambrose* (1890), 60 L. J. Q. B. 114; 55 J. P. 23.) But the disqualification applies only during the continuance of the contract, and ceases on its termination. (*Lewis v. Carr* (1876), 1 Ex. D. 484; 46 L. J. Ex. 314. See also *Woolley v. Kay* (1856), 1 H. & N. 307; 25 L. J. Ex. 351.)

A person who is interested in a contract with a borough council is disqualified for nomination as a candidate, as well as for election as a member of the council. But the returning officer has no power to reject his nomination on that ground. If he does, the disqualified candidate may present a petition, not for the purpose of claiming the seat, but in order to question the election of any other candidate. (*Harford v. Linskey*, (1899) 1 Q. B. 852; 68 L. J. Q. B. 599.)

Bargains and contracts which do not disqualify for membership of borough council. (See *ante*, p. 17.)—Though a person who is concerned in any bargain or contract with a borough council is, as a general rule, disqualified for membership of such council, there are certain exceptions.

A person is not disqualified for being elected or being a councillor, alderman, or mayor of a metropolitan borough by reason of being interested—

- (a) in the sale or lease of any lands or in any loan of money to the council, or in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood ; or
- (b) in any newspaper in which any advertisement relating to the affairs of the council is inserted ; or
- (c) in any contract with the council as a shareholder in any joint stock company ; but he must not vote at any meeting of the council on any question in which such company are interested, except that in the case of a water company, or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council.

(L. G. A. 1894, secs. 31 (1) and 46 (2), (9).)

The expression “land” includes messuages, tenements and hereditaments, houses and buildings of any tenure. (Interpretation Act, 1889, sec. 3.) A member of a local board was held not to be disqualified by reason of the lease to him by the board of a sewage farm. (*Reg. v. Gaskarth* (1880), 5 Q. B. D. 321; 49 L. J. Q. B. 509.) And the letting for one day of premises for the purposes of a polling station at a municipal election is a “lease of lands” within the exception. (*Nell v. Longbottom*, (1894) 1 Q. B. 767; 63 L. J. Q. B. 490.)

A payment made by a borough council to any medical practitioner in pursuance of the Public Health (London) Act, 1891, with respect to the notification of infectious disease, does not disqualify that practitioner for serving as a member of the council. (See secs. 55 (3) and 57 (1).)

A mere personal interest, not being a pecuniary interest, in a matter coming before the council has been held not to disqualify, *e.g.*, where a member of a local board, to serve his own private interest, used his influence with the board to prevent them from taking steps to preserve from being used for vehicular traffic a public footway giving access to his property. (*Murray v. Epsom Local Board*, (1897) 1 Ch. 35; 66 L. J. Ch. 107.)

Absence from meetings for more than six months consecutively disqualifies.—If a member of a borough council is absent from the meetings of the council for more than six calendar months consecutively, except in case of illness, or for some reason approved by the council, his office, on the expiration of those months, becomes vacant. (L. G. A. 1894, secs. 31 (1) and 46 (6), (9).)

A member of a borough council who vacates his office through absence, is not thereby disqualified for re-election. (*Reg. v. Turmine* (1878), 4 Q. B. D. 79; 48 L. J. Q. B. 5.) Apparently, a person who vacates his seat through absence is not liable to any fine, though if he resigns his office he is. (See *post*, pp. 28 and 33.)

Corrupt and illegal practices at elections disqualify.—Under certain circumstances persons convicted or reported by an election court, guilty of any corrupt or illegal practice at a parliamentary or local election, are disqualified for being elected to or being members of a borough council. (See *post*, pp. 52—59.)

Corruption in office a disqualification.—Every person who by himself, or by or in conjunction with any other person, corruptly solicits or receives, or agrees to receive, for him-

self or for any other person, or gives, promises, or offers any gift, loan, fee, reward, or advantage, as an inducement to or reward for, or otherwise on account of any member, officer, or servant of a "public body" doing or forbearing to do anything in respect of any matter or transaction in which the "public body" is concerned is guilty of a misdemeanour. On conviction he is, at the discretion of the Court, liable, amongst other things, to be adjudged incapable of being elected or appointed to any "public office" for seven years, and to forfeit any such office held by him; and in the event of a second conviction, to be for ever incapable of holding any "public office." (Public Bodies Corrupt Practices Act, 1889, sec. 2.)

The expression "public body" applies to any council of a county, city, town, or borough, board of guardians, school board and other body which has power to act under any Act relating to local government or public health; and the expression "public office" applies to any member, officer, or servant of such public body. (*Ib.* sec. 7.)

Council to declare office vacant on disqualification of member.—Where a member of a borough council becomes disqualified for holding office, or vacates his seat for absence, the council must forthwith declare the office to be vacant, and signify the same by notice signed by three members of the council and countersigned by the town clerk, and notified in such manner as the council direct, and the office thereupon becomes vacant. (L. G. A. 1894, sec. 46 (7).)

The procedure here prescribed should be strictly followed. Until the declaration of vacancy has been duly made by the borough council in the manner directed, the office is not vacant, and an election to fill it cannot, therefore, be held (see *Rex v. Mayor, &c. of Oxford* (1837), 6 A. & E. 349; *Reg. v. Mayor, &c. of Leeds* (1838), 7 A. & E. 963; *Reg. v. Mayor, &c. of Welchpool* (1876), 35 L. T. 594; *Pease v. Louden* (1899), 1 Q. B. 386; 68 L. J. Q. B. 239); though a borough councillor who

becomes disqualified is incapable of resigning his seat or filling his office. (*Hardwick v. Brown* (1873), L. R. 8 C. P. 406; 37 J. P. 407; *Futcher v. Saunders* (1885), 49 J. P. 424.) But in the case of disqualification by absence, the council should give the absent member an opportunity of explaining his absence before declaring his office to be vacant. Where a member of a school board had, through ill-health, absented himself for more than six months from the meetings of the board, it was held that the board could not, without first giving him an opportunity of explaining his absence, proceed to the election of a new member to take his place, and an injunction was granted to restrain them from doing so. (*Richardson v. Methley School Board*, (1893) 3 Ch. 510; 62 L. J. Ch. 943.)

Fine for acting as member of borough council when disqualified, or voting when prohibited.—Sub-section (8) of section 46 of the Local Government Act, 1894, provides that “if any person acts when disqualified, or votes when prohibited under this section, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds.”

The liability to this fine does not appear to be limited to persons acting when disqualified under section 48 of the Act, but apparently extends to every case of a person acting when disqualified for being a member of a borough council. The liability to the fine for *voting* when prohibited is, it will be observed, expressly limited to voting when prohibited by that section. (See *ante*, p. 23 *et seq.*)

A member of a borough council who becomes disqualified in consequence of being concerned in any bargain or contract entered into with the council, is not liable to a fine for acting after the termination of the contract. (*Lewis v. Carr* (1876), 1 Ex. D. 484; 46 L. J. Ex. 314. See also *Ex parte Birkbeck* (1874), L. R. 9 Q. B. 256; *De Souza v. Cobden*, (1891) 1 Q. B. 687; 60 L. J. Q. B. 533.)

TERM OF OFFICE OF MAYOR AND ALDERMEN.—The term of office of the mayor is one year, but he continues in office until his successor has accepted office and made and subscribed the required declaration. (M. C. A. 1882, sec. 15 (3).) The term of office of a borough alderman is six years. (*Ib.*, sec. 14 (5).) But a person elected to fill a casual vacancy in the office of mayor or alderman only holds office until the time when the person in whose place he is elected would regularly have gone out of office, and then goes out of office. (*Ib.*, sec. 40 (1).) The mayor and aldermen, during their respective offices, continue to be members of the council notwithstanding the provisions as to councillors going out of office at the end of three years. (*Ib.*, sec. 38.)

On the ordinary day of election, *i.e.*, on the 9th November, in every third year, one-half of the whole number of aldermen go out of office, and their places are filled by election. The half to go out are those who have been aldermen for the longest time without re-election. (*Ib.*, sec. 14.) The order of retirement of the first aldermen is prescribed by the Met. Boros. (First Election and First Meeting) O. in C., cl. 1, *post*, Appendix.)

TERM OF OFFICE AND RETIREMENT OF BOROUGH COUNCILLORS.—Borough councillors are elected for a period of three years, one-third of the total number elected for each ward retiring at the time appointed for the annual election, *i.e.*, the 1st November, in the third year following their election, except such councillors as are elected to supply casual vacancies, *i.e.*, vacancies occasioned otherwise than by effluxion of time. A person elected to fill a casual vacancy holds office until the time when the person in whose place he is elected would regularly have gone out of office, and then retires. (Metrop. Mant. Act, 1855, sec. 9; Met. Boro. Councillors Election Order, 1900, 6th Schedule, *post*, Ch. V.) The order of retirement of the first borough councillors is prescribed by the Met. Boros. (First Election and First Meeting) O. in C., 1900, cl. 1, *post*, Appendix.

The Local Government Board may, on request made by a borough council in pursuance of a resolution of the council passed by a majority of two-thirds of the members present and voting at a meeting of the council duly convened for the purpose, provided that such majority is not less than the majority of the whole council, make an order directing that the whole of the councillors shall retire together on the ordinary day of election in every third year, and may on like request rescind any such order. (London Govt. Act, 1899, sec. 2 (8).)

RESIGNATION OF MAYOR, ALDERMAN, OR COUNCILLOR.—A person elected to the office of mayor, alderman, or councillor may at any time by writing signed by him and delivered to the town clerk, resign the office on payment of the fine provided for non-acceptance thereof.

In any such case the council must forthwith declare the office to be vacant, and signify the same by notice in writing, signed by three members of the council and countersigned by the town clerk, and fixed on the town hall, and the office thereupon becomes vacant. (M. C. A. 1882, sec. 36; Met. Boro. Councillors Election Order, 1900, 6th Schedule, *post*, Ch. V.)

A mayor, alderman, or councillor can only resign at any time when he is capable of holding the office; and if, therefore, a person becomes disqualified during his term of office he ceases to hold office, and is, in consequence, incapable of resigning it. (*Hardwick v. Brown* (1873), L. R. 8 C. P. 406; 37 J. P. 407; *Futcher v. Saunders* (1885), 49 J. P. 424.)

The resignation is completed by delivery of the writing to the town clerk and payment of the fine, and cannot afterwards be withdrawn, even with the assent of the borough council. (*Reg. v. Wigan, Mayor, &c.* of (1885), 14 Q. B. D. 908; 54 L. J. Q. B. 338.) But though the writing has been duly delivered to the town clerk and the fine paid, the office does not become vacant until it has

been duly declared vacant by the council in the manner prescribed. (*Pease v. Lowden*, (1899) 1 Q. B. 386; 68 L. J. Q. B. 239.) A person who gives up one office on a borough council to fill another, is not, it would appear, liable to pay a fine. (*Reg. v. Bangor, Mayor, &c. of* (1886), 18 Q. B. D. 349, per Lindley, L. J., at p. 366; 56 L. J. Q. B. 326.)

OBLIGATION TO ACCEPT OFFICE OR PAY FINE.—Every qualified person elected to the office of mayor, alderman, or councillor, unless elected without his consent to his nomination being previously obtained, or unless exempt under section 34 of the Municipal Corporations Act, 1882, or otherwise by law, must either accept the office by making and subscribing the declaration required by that Act, within one calendar month after notice of being elected, or, in lieu thereof, be liable to pay to the borough council a fine, recoverable summarily, of such amount, not exceeding fifty pounds, as the council by by-law determine.

If there is no by-law determining fines, the fine is, in case of a mayor fifty pounds, in case of an alderman twenty-five pounds, and in case of a councillor twenty pounds.

The persons exempt under section 34 of the Municipal Corporations Act, 1882, are—

- (a) In the case of a mayor, alderman, or councillor, any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body; and
- (b) In the case of a mayor or alderman, any person being above the age of sixty-five years, or who, having within five years before the day of his election either served the office or paid the fine for non-acceptance thereof, claims exemption within five days after notice of his election.

If a person is elected as councillor in more than one

ward in the borough for which the election is held, he may not accept office in respect of more than one ward, and if he accepts office, or pays the fine for non-acceptance of office, in respect of one ward, he is not liable to a fine for non-acceptance of office in respect of any other ward. (M. C. A. 1882, sec. 34; L. G. A. 1888, secs. 2 and 75 (16) (c); L. G. A. 1894, sec. 48 (4); London Govt. Act, 1899, sec. 2 (4) and (7); Met. Boro. Councillors Election Order, 1900, r. 22 (1), and 6th Sched., *post*, Ch. V.)

If any person is returned as councillor for more than one ward, he must, on or before the next meeting of the council after the election, signify in writing to the town clerk his decision as to the ward which he may desire to represent. If before or at that meeting he refuses or neglects to do so, the council must determine which ward he shall represent. The vacancy thus occasioned must be filled by an election held for that purpose within one calendar month from the date of the determination or decision. (Metrop. Mant. Act, 1862, sec. 39.)

The following persons are also exempt but not disqualified, from accepting the office of mayor, alderman, or councillor—

Any military, naval, or marine officer in her Majesty's service on full pay or half pay, and any officer or other person employed and residing in any of her Majesty's dockyards, victualling establishments, arsenals, barracks, or other naval or military establishments. (M. C. A. 1882, sec. 253.)

Men belonging to the army reserve, under sec. 7 of the Reserve Forces Act, 1882.

Registrars of births, deaths, and marriages, under sec. 18 of the Births and Deaths Registration Act, 1837.

The Postmaster-General and officers of the Post Office, under sec. 12 of the Post Office (Management) Act, 1837.

Commissioners, officers, clerks, and other persons in the

service of the Customs, under sec. 9 of the Customs Consolidation Act, 1876.

Commissioners, officers, and other persons in the employ of the Inland Revenue, under sec. 8 of the Inland Revenue Regulation Act, 1890.

Inspectors of factories, under sec. 67 of the Factory and Workshop Act, 1878.

Registered medical practitioners, under sec. 35 of the Medical Act, 1858.

Registered dentists, under sec. 30 of the Dentists Act, 1878.

When the foregoing statutory exemptions from serving in office were enacted, persons elected to a municipal or parochial office were usually, as in some cases they still are, obliged, under penalties for default, to serve in the office, whether their consent to their election had been previously obtained or not. But, as stated above, a person who is elected to the office of mayor, alderman, or councillor of a metropolitan borough without his consent to his nomination being previously obtained, is not bound to accept the office or pay a fine; and it is open to argument, therefore, whether a person elected with his consent could claim exemption from the obligation to accept office or pay the fine under the above statutory exemptions.

The period prescribed for accepting the office after notice of election is exclusive of the day of notice of election, but inclusive of the last day allowed for making the declaration. If the last day falls on a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter week, or a day appointed for public fast, humiliation, or thanksgiving, the declaration is considered as made in due time if made on the next day afterwards, not being one of the days specified. (M. C. A. 1882, sec. 230.)

The notice of election means regular notice, either by being actually present when it is announced, or being apprised of the fact by some official authority. (*Reg. v. Preece* (1843), 5 Q. B. 94; 12 L. J. Q. B. 335.)

If the fine for non-acceptance of office is determined by by-law, the amount must be certain. But a by-law imposing a maximum amount with a power of mitigation to a sum not below a stated minimum, is good. (*Piper v. Chappell* (1845), 14 M. & W. 624.) As stated above, the fine is recoverable summarily. At least *prima facie* evidence of qualification must be produced; and if in fact the party was not qualified to be elected, he is not liable to pay the fine, and a conviction would be invalid. (*Reg. v. Richmond* (1862), 26 J. P. 771; 11 W. R. 65.)

A person elected to the office of mayor, alderman, or councillor of a metropolitan borough must not, until he has made and subscribed the declaration accepting office, act in the office except in administering that declaration. If he does, he is liable for each offence to a fine of, in the case of mayor or alderman fifty pounds, and in the case of councillor twenty pounds, recoverable by action. (M. C. A. 1882, secs. 35 and 41 (1), and 8th Schedule. Met. Boro. Councillors Election Order, 1900, rule 22 (1), and 6th Schedule, *post*, Ch. V.; which also prescribes the form of declaration on acceptance of office of borough councillor.)

The same form, with the substitution of the word "mayor" or "alderman," as the case may be, for the word "councillor," and with the omission of all reference to the ward, must be signed by every person accepting the office of mayor or councillor.

The declaration may be made either before two members of the borough council, whether they themselves have made the declaration or not, or before the town clerk; or, in the case of a mayor or alderman, before a justice of the peace or commissioner to administer oaths in the Supreme Court; or, in the case of a councillor who is absent from the United Kingdom, before a British consul. (M. C. A. 1882, secs. 35 and 239; County Councils (Elections) Act, 1891, sec. 5; Met. Boro. Councillors Election Order, 1900, rule 22 (1), and 6th Schedule, *post*, Ch. V.)

Until a town clerk or acting town clerk is appointed,

the declaration may be made before the clerk to any vestry, district board of works, local board of health, or urban district council who is transferred to the council of the borough. (*Ib.*; and Met. Boros. (First Election and First Meeting) O. in C. 1900, cl. 6, *post*, Appendix.)

A member of the borough council should not receive the declaration of a person whom he knows to be disqualified. (See *Reg. v. Greene* (1842), 2 Q. B. 460; 11 L. J. Q. B. 107.)

Non-acceptance of office by a person elected mayor, alderman, or councillor, creates a casual vacancy. (M. C. A. 1882, sec. 40 (3); Met. Boro. Councillors Election Order, 1900, 6th Schedule, *post*, Ch. V.)

ABSENCE ON MILITARY SERVICE.—While this book was in the press, the Members of Local Authorities Relief Act, 1900, was passed, providing that an officer or soldier of the auxiliary forces or of the reserve forces on active service, or on service beyond the seas, shall not by reason only of his absence on that service be disqualified or vacate his office as a member of any county or borough or district or parish council, or board of guardians, or incur any fine or other liability. (See *ante*, p. 24.)

CHAPTER III.

ELECTION OF MAYOR AND ALDERMEN.

DAY OF ELECTION OF MAYOR AND ALDERMEN.—The ordinary day of election of the mayor and aldermen is the 9th November, or if that day is Sunday, then the following day. (London Govt. Act, 1899, sec. 3 (2).) If a later date than the 1st November, 1900, is fixed by the Lord President of the Privy Council for the first election of borough councillors, he has also to fix a corresponding date for the first election of borough aldermen. (*Ib.* sec. 3 (1).)

On a casual vacancy in the office of mayor or alderman, the election must be held within fourteen days after notice in writing of the vacancy has been given to the mayor or town clerk by two borough electors. Where the office vacant is that of mayor, the notice of the meeting for the election must be signed by the town clerk. If the office vacant is that of alderman, the day of election must be fixed by the mayor, or by an alderman chosen by the borough council for that purpose if the mayor is dead, or absent, or otherwise incapable of acting. The election to fill a casual vacancy in the office is held by the same persons and in the same manner as an election to fill an ordinary vacancy. (M. C. A. 1882, secs. 66, 67 and 40 (1).) The period limited for holding an election to fill a casual vacancy is exclusive of the day of notice of the vacancy, but inclusive of the last day for holding the election. If the last day falls on a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter week,

or a day appointed for public fast, humiliation, or thanksgiving, the election is considered as held in due time if held on the next day afterwards, not being one of the days specified. (*Ib.* sec. 230.)

If an election to the office of mayor or alderman is not held on the appointed day or within the appointed time, it may be held on the next day after that day or the expiration of that time. And if the election is not then held, or if the election becomes void, the borough council is not thereby dissolved or disabled from electing, but the High Court may, on motion, grant a *mandamus* for the election to be held on a day appointed by the Court. Thereupon public notice of the election must, by such person as the Court directs, be fixed on the town hall, and be kept so fixed for at least six days before the day appointed for the election, and in all other respects the election must be conducted as directed respecting ordinary elections. (M. C. A. 1882, sec. 70.)

Where a county council election to fill a casual vacancy was not held on the appointed day, owing to there having been no valid nomination, the Court granted a peremptory *mandamus* to hold a fresh election on a day appointed by the Court. (*Reg. v. West Sussex County Council, Ex parte Henderson*, (1895) 65 L. J. Q. B. 184; 59 J. P. 808; see also *Reg. v. Wilton, post*, p. 39.) The *mandamus* must be directed to the borough council in the corporate title of "The mayor, aldermen, and councillors of the metropolitan borough of —," even though no mayor may be actually in existence. (See *Reg. v. Pembroke Corporation* (1840), 8 Dowl. P. C. 302.)

The above provisions for holding an election of a mayor or alderman subsequent to the appointed day or time apply only where there has been no election, or where an election becomes void by irregularity, default, or accident. Where it is alleged that such an election is void on the ground that the person elected was disqualified at the time of his election, or that he was not duly elected by a majority of

lawful votes, or in consequence of corrupt or illegal practices, the mode of questioning the election is by election petition. (*Pritchard v. Bangor, Mayor, &c. of* (1888), 13 App. Cas. 241; 57 L. J. Q. B. 313; *Reg. v. Morton*, (1892) 1 Q. B. 39; 61 L. J. Q. B. 39; see *post*, p. 61.)

MODE OF ELECTION OF MAYOR.—The election of mayor must be the first business transacted at the meeting of the borough council on the day of election. (M. C. A. 1882, sec. 61 (2).) The outgoing mayor, if present, must be chairman of the meeting. In his absence a chairman for the occasion must, before proceeding to other business, be elected by the council from amongst the aldermen present, or if no aldermen be present, then from amongst the councillors present. (*Ib.* 2nd Sched. r. 9; Metrop. Mant. Act, 1855, sec. 30.) At the first meeting of the borough council, the councillors must first elect one of their number as chairman, and then proceed to the election of mayor. (See Met. Boros. (First Election and First Meeting) O. in C., 1900, cl. 7, *post*, Appendix.)

The mayor is elected by the borough council, but an outgoing alderman cannot, as alderman, vote in the election of mayor. (M. C. A. 1882, sec. 15 (1); L. G. A. 1888, sec. 70 (10).)

An outgoing alderman who has been elected a borough councillor vacates his office of alderman immediately, but not till, he makes and signs a declaration accepting the office of councillor, and as councillor is then entitled to vote in the election of mayor. (*Reg. v. Mayor, &c. of Bangor* (1886), 18 Q. B. D. 349, at p. 366; 56 L. J. Q. B. 326; see also *Reg. v. Douglas*, (1898) 1 Q. B. 560; 67 L. J. Q. B. 406.)

No particular mode of voting is prescribed, and the election apparently may be by show of hands, by open voting papers, by dividing the council, or by ballot, as the council may determine.

Unless disqualified to vote in the election of mayor, the

chairman is entitled to vote in the first instance, and in case of an equality of votes has a second or casting vote. And even when not entitled to vote in the first instance, the chairman has, in case of an equality of votes, the casting vote. If the chairman is an outgoing alderman, and is not the mayor, he cannot vote in the first instance in the election of mayor, though he has the casting vote in case of an equality of votes. But where the chairman is an outgoing mayor, and is also an outgoing alderman, though he cannot as an alderman vote in the first instance in the election of mayor, it is submitted that he is entitled to do so in his capacity of mayor, and to give the casting vote in case of an equality of votes. (Metrop. Mant. Act, 1855, s. 30; M. C. A. 1882, s. 61 (4); L. G. A. 1888, s. 75 (10).) At the first election of mayor, the chairman has a second or casting vote. (Met. Boros. (First Election and First Meeting) O. in C., 1900, cl. 7 (5), *post*, Appendix.)

MODE OF ELECTION OF BOROUGH ALDERMEN. — The election of borough aldermen must be held immediately after the election of mayor. It would appear that if the election of aldermen precedes that of the mayor, both elections are void. (M. C. A. 1882, s. 60 (2); Met. Boros. (First Election and First Meeting) O. in C., 1900, cl. 7 (6), *post*, Appendix; and *Reg. v. M'Gowan* (1840), 11 A. & E. 869.)

The aldermen are elected by the mayor (if present) and the borough councillors present at the meeting. A borough alderman cannot, *as such*, vote in the election of borough aldermen. (M. C. A. 1882, s. 14; L. G. A. 1888, s. 2 (2) (c).) But a borough alderman who has been elected a borough councillor vacates his office of alderman immediately he makes and signs a declaration accepting the office of councillor, and as councillor is entitled to vote in the election of aldermen. (*Reg. v. Mayor, &c. of Bangor, ante*, p. 36.) Every person entitled to vote may vote for

any number of persons not exceeding the number of vacancies, by—

- (1) signing, and
- (2) personally delivering at the meeting to the chairman a voting paper containing the—
 - (a) surnames and other names; and
 - (b) places of abode; and
 - (c) descriptions

of the persons for whom he votes. (M. C. A. 1882, s. 60 (4).)

Signing the voting paper with the initials of the Christian name only, but with the full surname, is sufficient. (*Reg. v. Hartlepool, Mayor, &c. of* (1851), 2 L. M. & P. 666; 21 L. J. Q. B. 71.) And collection of the voting papers in the presence of the chairman from the councillors present, by the town clerk, and immediate delivery by him to the chairman, is equivalent to personal delivery to the chairman. (*Baxter v. Spencer* (1895), 64 L. J. Q. B. 644; 59 J. P. 376.)

A contraction of the Christian name of the person voted for, such as is ordinarily understood, e.g. Wm. for William, is sufficient. (*Reg. v. Bradley* (1861), 3 E. & E. 634; 30 L. J. Q. B. 180.) If the initials only of the Christian name of the person voted for are given, the voting paper is not invalid. The misnomer is cured by sect. 241 of the Municipal Corporations Act, 1882, which provides that no misnomer or inaccurate description of any person, body corporate, or place in any roll, list, notice, or voting paper required by the Act, shall hinder the full operation of the Act with respect to that person, body corporate, or place, provided that the description be such as to be commonly understood. (*Reg. v. Plenty* (1869), L. R. 4 Q. B. 346; 38 L. J. Q. B. 305.)

The place of abode is the place where the person resides. To describe a person as of his place of business when he resides elsewhere, is such a misdescription of his place of abode as to avoid his election; though a mere

misnomer or inaccurate description of his true place of abode, such as to be commonly understood, would be cured by the above-mentioned provision of the Municipal Corporations Act, 1882. (*Reg. v. Coward* (1851), 16 Q. B. 819; 20 L. J. Q. B. 359.)

Where in an election of aldermen the councillors used blank slips of paper for voting, and only wrote on them the surnames and initials of the persons voted for, without their place of abode or description, and did not sign the papers, which were not handed personally to the chairman, but were passed up to him in an irregular manner, the election was declared void; and a *mandamus* was granted for a fresh election. (*Reg. v. Wilton, Mayor, &c. of* (1886), 34 W. R. 273.)

In case of an equality of votes the chairman, although, as an alderman or otherwise, not entitled to vote in the first instance, has the casting vote. The mayor, if present, must preside, and though he may himself be an alderman, and as such not entitled to vote in the election of aldermen, it is submitted that as mayor he will be entitled to vote in the first instance and, in case of an equality of votes, will have a second or casting vote.

As already stated, if the mayor is absent, such alderman, or in the absence of all the aldermen, such councillor as the members of the council then choose, must be elected chairman for the occasion, before proceeding to other business. If the person so elected chairman is an alderman he cannot vote in the first instance in the election of aldermen, though in case of an equality of votes he has the casting vote. If he is a councillor he may vote in the first instance and also has a second or casting vote in case of an equality of votes. (Metrop. Mant. Act, 1855, s. 30; L. G. A. 1888, s. 75 (10); M. C. A. 1882, s. 60 (6), and 2nd Sched. r. 9; Met. Boros. (First Election and First Meeting) O. in C., 1900, cl. 7 (5), *post*, Appendix.)

The chairman, as soon as all the voting papers have been delivered to him, must openly produce and read



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them, or cause them to be read, and then deliver them to the town clerk to be kept for twelve calendar months. The persons, not exceeding the number of vacancies, who have the greatest number of votes, must be declared by the chairman to be, and thereupon are, elected. (M. C. A. 1882, s. 60 (5), (7).) As stated above, in case of an equality of votes, the chairman, whether entitled to vote in the first instance or not, has the casting vote.

CHAPTER IV.

ELECTION OF METROPOLITAN BOROUGH COUNCILLORS.

Day of election of borough councillors.—The ordinary day of election of borough councillors is the first day of November, or if that day is Sunday, then the following day. (London Govt. Act, 1899, sec. 3 (1) and (2).) The first election of all borough councillors under this Act is to be held on the first day of November, One thousand nine hundred, or on such later day, as soon as practicable thereafter, as may be fixed by the Lord President of the Council. (Ib.)

At every election of borough councillors for any metropolitan borough, or any ward of any metropolitan borough, the electors of such borough entitled to vote in such election elect as many councillors as there are vacancies in the council, or among the councillors elected for such ward, whether such vacancies be occasioned by the expiration of the term of office, or by death or otherwise. (Metrop. Mant. Act, 1855, sec. 10. As to the day of election for filling casual vacancies, see Met. Boro. Councillors Election Order, 6th Sched. *post*, Ch. V.)

Mode of election of borough councillors.—Subject to the provisions of the Local Government Act, 1894, the election of borough councillors must be conducted according to rules framed under the Act by the Local Government Board. (L. G. A. 1894, sec. 23 (5).) The poll must be taken by ballot, and be kept open from 8 a.m. to 8 p.m. ; and the Ballot Act, 1872, the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and sections 74 and 75, and Part IV. of the Municipal Corporations Act,

1882, apply, subject to adaptations, alterations, and exceptions made by the rules. (*Ib.* secs. 31 (1) and 48 (3); Elections (Hours of Poll) Act, 1885.) For the text of the rules, and the adapted provisions of the Ballot Act, &c., see *post*, Ch. V. The material provisions of the M. E. C. I. P. A. 1884, are dealt with in the following pages of this chapter.

Nomination of candidates.—Every candidate must be nominated in writing by two parochial electors of the ward, in accordance with, and within the time prescribed by, rules 3—7 of the Met. Boro. Councillors Election Order, 1900, *post*, Ch. V. The returning officer is required to provide nomination papers to any parochial elector free of charge. (*Ib.* r. 4.)

Withdrawal of candidate.—Any candidate may withdraw his candidature in the manner and within the time prescribed by the Met. Boro. Councillors Election Order, 1900, r. 8, *post*, Ch. V.

Any person who before or during a borough election knowingly publishes a false statement of the withdrawal of a candidate at such election, for the purpose of promoting or procuring the election of another candidate, is guilty of an illegal practice. But the candidate will not be liable, nor his election avoided, if the offence is committed without his knowledge and consent. (M. E. C. I. P. A. 1884, sec. 6 (2) and (3).)

Any person who corruptly induces or procures any other person to withdraw from being a candidate at a borough election, in consideration of any payment or promise of payment, and also any person withdrawing in pursuance of such inducement or procurement, is guilty of illegal payment. (*Ib.* sec. 11.)

Who may or may not vote at election of borough councillors.
—The parochial electors of the parishes in the borough are

the electors of the councillors of the borough. (L. G. A. 1894, sec. 23 (3).) Any person whose name is not in the register of parochial electors is not entitled to vote, and any person, including married and unmarried women, whose name is in the register of parochial electors is entitled to vote as a parochial elector, unless prohibited from voting by any Act of Parliament. (*Ib.* secs. 43 and 44 (1).)

The following persons are prohibited from voting, even though their names may be in the register of parochial electors:—

- (1.) Any person convicted of treason or felony, until he has suffered the punishment or has received a free pardon. (Forfeiture Act, 1870, sec. 2.)
- (2.) Any person in receipt of parochial relief (other than medical relief) given to himself, or to his wife or child, during the year preceding the election. (Divided Parishes and Poor Law Amend. Act, 1876, sec. 14; Medical Relief Disqualification Removal Act, 1885. For the meaning of "parochial relief," see *ante*, p. 19.)
- (3.) Any person employed for payment in promoting or procuring the election of a candidate at the election. (M. E. C. I. P. A. 1884, sec. 13 (3).)
- (4.) Any person guilty of a corrupt or illegal practice, or of illegal employment, payment, or hiring at the election. (*Ib.* sec. 22.)
- (5.) Any person convicted of a corrupt practice at a parliamentary or municipal election, for seven years from the date of his conviction, at any election within the United Kingdom. (See *post*, p. 56.)
- (6.) Any person convicted summarily of an illegal practice, during five years from the date of his conviction, within the borough where the offence was committed. (See *post*, p. 56.)
- (7.) Any person who, on a second conviction of corruptly soliciting or receiving, or giving, or promising

ing, any gift, loan, fee, reward or advantage as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body doing or forbearing to do anything in respect of any matter or transaction in which the public body is concerned, is adjudged by the Court incapable for seven years of being registered as an elector or voting at a parliamentary or local election. (Public Bodies Corrupt Practices Act, 1889, sec. 2.)

A person who knowingly votes or procures any person to vote when prohibited is guilty of an illegal practice. (M. E. C. I. P. A. 1884, sec. 6 (1). See *post*, p. 57.)

Where to vote at election of borough councillors.—The electors of the councillors for each ward are such of the parochial electors as are registered in respect of qualifications within the ward. If any ward is divided into polling districts, each parochial elector can only vote in the polling district in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one polling district, he may vote in any one, but only one, of the polling districts in which it is situate. And an elector, though registered for more than one ward or in more than one polling district of the same borough, may not, at the same election, vote for more than one ward or in more than one polling district. (L. G. A. 1894, secs. 23 (3), (5), and 48 (2) (iii), and Met. Boro. Clrs. Electn. Order, 1900, r. 10, *post*, Ch. V.)

A person who at a borough election votes for more than one ward or in more than one polling district of the same borough is guilty of personation. (See *post*, p. 55.) But a person may be registered, and if registered may vote, as a parochial elector in as many boroughs as he possesses the necessary qualification. (See L. G. A. 1894, sec. 44 (4).)

EXPENSES OF ELECTION OF BOROUGH COUNCILLORS. 45

Number of votes at election of borough councillors.—Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected. (*Ib.* sec. 23 (4).) If an elector votes for more candidates than there are vacancies to be filled, the whole of his votes are void. If he votes for fewer candidates than there are vacancies, his votes count as one vote for each of the candidates voted for. If he gives more than one vote to any candidate, he is deemed to have given one vote for such candidate. (See *Woodward v. Sarsons* (1875), L. R. 10 C. P. 733; 44 L. J. C. P. 293; *Cirencester* (1893), 4 O'M. & H. 194; *Day's El. Cas.* 57.)

Difficulties respecting election of borough councillor may be removed by county council.—If any difficulty arises as respects the election of any individual borough councillor, and there is no provision for holding another election, the county council may order a new election to be held, and give such directions as may be necessary for the purpose of holding the election. (L. G. A. 1894, sec. 48 (5).)

Expenses of holding election of borough councillors.—The expenses of holding any election of borough councillors must not exceed the scale fixed by the county council, and if at the beginning of one month before the first election the county council have not framed any such scale, the Local Government Board may do so, and the scale so framed will apply to the first election, and have effect as if it had been made by the county council, but will not be alterable until after the first election. The expenses are payable out of the general rate. (L. G. A. 1894, sec. 48 (7); Met. Boro. Clrs. Electn. Order, 1900, r. 24, *post*, Ch. V.) The above provisions do not apply to the expenses of the candidates, as to which see *infra*.

The candidate's election expenses.—At an election of borough councillors (unlike the case of an election of town

councillors outside London and of county councillors) no maximum amount of election expenses is prescribed, no time is limited for sending in and paying claims, and no return or declaration of election expenses is required to be made by the candidates. (M. E. C. I. P. A. 1884, sec. 37; L. G. A. 1894, sec. 48 (3) (b).)

The candidate's election staff.—No person may, for the purpose of promoting or procuring the election of a candidate, or of two or more joint candidates, at a borough election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except as follows—

(1.) As clerks and messengers, or in either capacity. A number of persons may be employed according to the number of parochial electors for the ward, taken according to the enumeration on the register of parochial electors, as follows, viz.—

1 to 2,000 electors, Two persons.

2,001 to 3,000 , Three ,

3,001 to 4,000 , Four ,

4,001 to 5,000 , Five ,

and an additional person for every additional thousand or incomplete part of a thousand electors.

(2.) Subject to rules 15 and 23 (4) of the Metropolitan Borough Councillors Election Order, 1900, *post*, Ch. V., one polling agent in each polling station.

This limitation does not, however, apply to any engagement or employment for carrying into effect a contract *bond fide* made with any person in the ordinary course of business.

If any person is employed in contravention of the above provision, either before, during, or after a borough election, the person engaging or employing him is guilty of illegal employment, and the person so engaged or employed is also guilty of illegal employment if he knew that he was engaged or employed in contravention of the Act.

A person legally employed as above may or may not be an elector, but he may not vote. (M. E. C. I. P. A. 1884, secs. 13 and 34.)

Every candidate is also entitled to appoint a limited number of counting agents to attend the counting of the votes, subject to the conditions prescribed by the Ballot Act, First Schedule, rules 31 and 51, as adapted and applied by the Fourth Schedule of the Metropolitan Borough Councillors Election Order, 1900, *post*, Ch. V. But no such agent may be employed for payment.

The number of persons who may be employed without payment or reward is unlimited.

It is illegal to employ for payment clerks, messengers, or other persons as canvassers (*Stepney* (1892), 4 O'M. & H. 179; *Day's El. Cas.* 119), or to provide canvassers or other volunteer workers with refreshments. (*Barrow-in-Furness* (1886), 4 O'M. & H. 78.) And though clerks, messengers, and other persons legally employed for payment are not debarred from canvassing voluntarily in their own time, provided that in doing so they act honestly (*Elgin and Nairn* (1895), 5 O'M. & H. 13; *Lichfield*, *ib.* 28), it is safer for the candidate not to sanction any canvassing whatever by them.

Committee rooms.—The number of committee rooms on account of which payment may be made or received for each ward, on account of any candidate or any two or more joint candidates, is limited, according to the number of parochial electors for the ward, taken according to the enumeration of the electors on the register of parochial electors, as follows:—

1 to 2,000 electors, inclusive, One committee room.

2,001 to 4,000	"	"	Two	"	"
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4,001 to 6,000	"	"	Three	"	"
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and an additional committee room for every additional 2,000 electors and incomplete part of 2,000 electors.

Any payment or contract for payment knowingly made

on account of any committee room in excess of the prescribed number, either before, during, or after a borough election is an illegal practice. (M. E. C. I. P. A. 1884, secs. 4 and 34.)

There is no statutory definition of the expression "committee room." But it does not include any house or room occupied by a candidate at an election as a dwelling, by reason only of the candidate there transacting business in relation to the election; nor is any room or building deemed to be a committee room by reason only of the candidate or any agent of the candidate addressing therein electors, committee-men or others. (C. I. P. P. A. 1883, sec. 64; M. E. C. I. P. A. 1884, sec. 34.)

The following premises must not be used for the purpose of promoting or procuring the election of a candidate at a borough election, either as a committee room or for holding a meeting, viz. :—

- (1) Any premises which are licensed for the sale of any intoxicating liquor for consumption on or off the premises, or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises; or
- (2) Any premises where intoxicating liquor is supplied to members of a club or society, or any part of such premises.

Any person who hires or uses, and any person who knowingly lets or permits the use of, such premises as a committee room or for holding an election meeting is guilty of illegal hiring.

But the prohibition does not apply to any part of such premises which is ordinarily let for the purpose of chambers or offices, or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold. (*Ib.* sec. 16.)

Meetings of electors.—Any premises which are prohibited

from being used as a committee room are also prohibited from being used for holding a meeting for the purpose of promoting or procuring the election of a candidate. (See *supra*.)

From a case decided under the law relating to parliamentary elections, it would appear that a meeting called merely for the purpose of selecting a candidate or candidates, and not for the purpose of promoting or procuring the election of any particular candidate or candidates, is not a meeting "for the purpose of promoting or procuring the election of a candidate" within the meaning of the prohibition, even though the person selected by the meeting be present and address the meeting before his selection. (*Norwich* (1886), 4 O'M. & H. 85, 86.) But it is safer to avoid using prohibited premises for holding any meeting whatever in connection with a borough election, whether for the selection of a candidate or for any other purpose.

It is illegal to employ for payment persons for the purpose of keeping order at meetings. (*Ipswich* (1886), 4 O'M. & H. 78.) Any assistance required must be rendered either by volunteers or by the clerks and messengers legally employed in the promotion of the candidate's election.

Printing and advertising.—Every bill, placard, or poster having reference to a borough election must bear upon the face of it the name and address of the printer and publisher. Any person contravening this provision, if a candidate, is guilty of an illegal practice, and, if not a candidate, is liable on summary conviction to a fine not exceeding one hundred pounds. (M. E. C. I. P. A. 1884, sec. 14.)

The words "bill, placard, or poster" are not defined, and it is impossible to enumerate everything which will come within the description. The only safe course for the candidate to adopt is to see that all printed matter issued in connection with the election bears upon the face of it the name and address of the printer and publisher. (See

Bettesworth v. Allingham (1885), 16 Q. B. D. 44; 50 J.P. 55; *Barrow-in-Furness* (1886), 4 O'M. & H. 76—78; *Stepney* (1886), 4 O'M. & H. 52 and 54.)

No payment or contract for payment may, for the purpose of promoting or procuring the election of a candidate at a borough election, be made to or with an elector on account of the use of any house, land, building, or premises for or on account of the exhibition of any address, bill, or notice, except where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements. Any person making such payment or contract, and any person receiving such payment or being a party to any such contract, knowing it to be a contravention of the Act, is guilty of an illegal practice. (M. E. C. I. P. A., sec. 4 (1) (b), 4 (2), (3).)

Bands, flags, banners, and other marks of distinction.—No payment or contract for payment may, for the purpose of promoting or procuring the election of a candidate at a borough election, be made by or to any person whatever on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction. Any person making such payment, and any person who, knowing it to be contrary to law, is a party to any such contract, or receives any such payment, is guilty of an illegal payment. (M. E. C. I. P. A. 1884, sec. 12.)

Strips of canvas, bearing the candidate's name, stretched across a street, have been held to be banners, payment for which is an illegal payment. (*Stepney* (1892), 4 O'M. & H. 179; Day's El. Cas. 119.) So also have portraits of the candidate printed on linen and mounted on sticks at the top and bottom. (*St. George's Division* (1895), 5 O'M. & H. 107.)

Payment for hat cards bearing the candidate's portrait is a payment for marks of distinction, and is therefore illegal. (*Walsall* (1892), 4 O'M. & H. 126; Day's El. Cas. 109.) But payment for solicitation cards, soliciting

the votes of the electors for a particular candidate, and not intended to be worn as a mark of distinction, was held not to be illegal, although it was proved that they were largely worn in the hats of the candidate's supporters. (*East Clare* (1892), 4 O'M. & H. 163; *Day's El. Cas.* 164.)

Though payment on account of bands of music, torches, flags, &c. is illegal, the gratuitous provision of them for the purpose of promoting or procuring the election of a candidate at a borough election is not prohibited. And where rosettes were used at a parliamentary election as marks of distinction, but it was not shown that any payment or contract of payment for them had been made, it was held that no offence had been committed. (*Pontefract* (1892), 4 O'M. & H. 200; *Day's El. Cas.* p. 127.) Candidates should, however, be chary of accepting offers of bands of music, torches, &c., because of the serious risks to the validity of the election which they involve. (See *Southampton* (1895), 5 O'M. & H. 20.)

A payment made at a parliamentary election to a voter on account of damage done by a banner supplied gratuitously, and to another voter for the loss of a hat at a meeting of electors, has been held not to be an illegal payment. (*Stepney* (1886), 4 O'M. & H. 39.)

Conveyance of electors to the poll.—A person must not let, lend, or employ, hire, borrow, or use, for the purpose of the conveyance of electors to or from the poll at a borough election any—

- (1) Public stage or hackney carriage; or
- (2) Horse or other animal kept or used for drawing the same; or
- (3) Carriage, horse, or other animal kept or used for the purpose of letting out for hire.

Any person knowingly acting in contravention of this prohibition is guilty of "illegal hiring," and, if a candidate, of an "illegal practice." (M. E. C. I. P. A. 1884, secs. 10 (1), (2), and 17 (2).)

Further, no payment or contract for payment must, for

the purpose of promoting or procuring the election of a candidate at a borough election, be made on account of the conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise. Any person knowingly making or receiving such payment, or being a party to such contract, is guilty of an illegal practice. (*Ib.* sec. 4 (1) (a), (2).)

Payment for stabling and baiting of horses lent for the conveyance of voters to the poll is illegal. (*Lichfield* (1895), 5 O'M. & H. 30.) And where, at a parliamentary election, payment was made for the conveyance of a single voter to the poll, the election was declared void, the Court not being satisfied that the candidate and his agent had used all reasonable means for preventing corrupt and illegal practices. (*Southampton* (1895), 5 O'M. & H. 20.)

But nothing prevents a carriage, horse, or other animal being let to, or hired, employed, or used by an elector, or several electors at their joint cost, for the conveyance of him or them to or from the poll. (M. E. C. I. P. A. 1884, sec. 10 (3).)

The loan and use of private conveyances, not hired, or kept or used for the purpose of letting out for hire, for the conveyance of electors to or from the poll is not prohibited. And no person is liable to pay any duty or to take out a licence for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll. (*Ib.* sec. 10 (4).)

Precautions against corrupt and illegal practices.—Candidates should take every precaution against, and use all reasonable means to prevent, corrupt and illegal practices at their election, for a single corrupt or illegal practice may avoid the election. (See *Blackburn* (1869), 1 O'M. & H. 200; *Shrewsbury* (1870), 2 O'M. & H. 36; *Norwich*, *ib.* 41; *Pontefract* (1892), 4 O'M. & H. 200; *Day's El. Cas.* 125; *Southampton* (1895), 5 O'M. & H. 20.)

CORRUPT PRACTICES.—The expression “corrupt prac-

tice" means any of the following offences, viz. :—Treating, undue influence, bribery, and personation, and aiding, abetting, counselling, and procuring the commission of the offence of personation. (*Ib.* sec. 2 (1).)

Treating.—Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, is guilty of treating. (*Ib.* sec. 2 (1), and 3rd Sched. Pt. I.)

Undue influence.—Every person who directly or indirectly, by himself or any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free exercise of the franchise of any elector, or thereby compels, induces, or prevails upon any elector either to give or to refrain from giving his vote at any election, is guilty of undue influence. (*Ib.*)

Bribery.—The following persons are deemed guilty of bribery, and are punishable accordingly :—

- (1.) Every person who directly, or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or endeavours to procure, any money or valuable consideration to or for any

voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act on account of such voter having voted or refrained from voting at any election.

(2.) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or endeavours to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at any election.

(3.) Every person who, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person, or the vote of any voter at any election.

(4.) Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures, or engages, promises, or endeavours to procure the return of any person, or the vote of any voter at any election.

(5.) Every person who advances or pays, or causes to be paid, any money to or to the use of any other person with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election; provided always, that

the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bona fide* incurred at or concerning any election.

The following persons are also deemed guilty of bribery, and are punishable accordingly :—

- (1.) Every voter who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or from refraining or agreeing to refrain from voting at any election.
- (2.) Every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at the future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly ; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made, shall also be guilty of bribery, and punishable accordingly. (*Ib.*)

Personation.—A person shall be deemed to be guilty of the offence of personation who, at an election (1) applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or (2) having voted once at an election,

applies at the same election for a ballot paper in his own name, or (3) aids, abets, counsels, and procures the commission of the offence of personation. (*Ib.*)

But a person whose name is incorrectly described in the register, is not guilty of personation if he votes in the name as it appears in the register. (*Reg. v. Fox* (1887), 1 Cox C. C. 166.)

Punishment for corrupt practices.—A person who commits any corrupt practice, other than personation, or aiding, &c. that offence, is guilty of a misdemeanour, and on conviction on indictment is liable to imprisonment, with or without hard labour, for a term not exceeding one year, or a fine not exceeding two hundred pounds. (M. E. C. I. P. A. 1884, sec. 2 (2); C. I. P. P. A. 1883, sec. 6 (1).)

A person who is guilty of several corrupt practices at an election is liable to a separate penalty in respect of each corrupt practice. (*Milnes v. Bale* (1875), L. R. 10 C. P. 591; 44 L. J. C. P. 336.)

A person who commits the offence of personation, or of aiding, abetting, counselling, or procuring the commission of that offence, is guilty of felony, and liable on conviction on indictment to imprisonment for a term not exceeding two years, together with hard labour. (C. I. P. P. A. 1883, sec. 6 (2).)

In addition to the above penalties, a person convicted on indictment of any corrupt practice is incapable during a period of seven years from the date of his conviction, (a) of being registered as an elector or voting at any election in the United Kingdom, either parliamentary or for any public office; or (b) of holding any public or judicial office, and if he holds such office, the office is vacated. Any person so convicted is also incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his conviction. (*Ib.* sec. 6 (3) and (4).)

If an election court report that a corrupt practice, other than treating and undue influence, has been committed by or with the knowledge and consent of any candidate, or that the offence of treating or undue influence has been committed by any candidate, that candidate is for ever incapable of being a member of the borough council in the borough where the offence was committed, his election is void, and he is subject to the same incapacities as if he had been convicted of a corrupt practice. (M. E. C. I. P. A. 1884, sec. 3 (1).)

If an election court report that any candidate has been guilty by his agents of a corrupt practice, that candidate is incapable of being elected to or being a member of the council of the borough where the offence was committed, for three years from the date of the report, and if he has been elected his election is void. (*Ib.* sec. 3 (2).)

ILLEGAL PRACTICES.—The following are illegal practices:—

- (1) Payment on account of any committee room in excess of the number allowed. (See *ante*, p. 47.)
- (2) Printing, publishing, or posting any address, bill, placard, or poster, which does not bear upon the face of it the name and address of the printer and publisher, if done by a candidate. (See *ante*, p. 49.)
- (3) Payment or contract with an elector for the exhibition of bills or notices. (See *ante*, p. 50.)
- (4) Payment for the conveyance of electors to the poll. (See *ante*, p. 51.)
- (5) Knowingly publishing a false statement of the withdrawal of a candidate. (See *ante*, p. 42.)
- (6) Voting, or inducing a person to vote when prohibited. (See *ante*, p. 44.)
- (7) Illegal payment, employment, or hiring, when committed by a candidate. (See *infra*.)

A person guilty of an illegal practice in reference to a

borough election, is, on summary conviction, liable to a fine not exceeding one hundred pounds, and is incapable during a period of five years from the date of his conviction of being registered or voting at any election, whether it be a parliamentary or a local election, held for or within the borough in which the illegal practice has been committed. (M. E. C. I. P. A. 1884, sec. 7.)

Where, upon the trial of an election petition respecting a borough election, the election court reports that a candidate has been guilty, by himself or his agents, of an illegal practice in reference to such election, the candidate is not capable of being elected to or holding the office of mayor, alderman, or councillor of the borough during the period for which he was elected to serve, or for which, if elected, he might have served, and if he was elected, his election is void. And if the report is that such candidate has himself been guilty of an illegal practice, he is also subject to the same incapacities as if, at the date of the report, he had been convicted of such illegal practice. (*Ib.* sec. 8 (2).)

A candidate is not, however, liable, nor is his election avoided, for the illegal practices of voting, or inducing any person to vote, when prohibited, or publishing a false statement of the withdrawal of a candidate, committed without his knowledge or consent. (*Ib.* sec. 6 (3).)

ILLEGAL PAYMENT, EMPLOYMENT OR HIRING.—The following are offences of illegal payment, employment or hiring:—

- (1) Knowingly providing money for an illegal payment, or for replacing any money so expended. (M. E. C. I. P. A. 1882, sec. 9.)
- (2) Employment of clerks, messengers, or polling agents in excess of the number allowed. (See *ante*, p. 46.)
- (3) Using or letting for committee rooms or meetings any licensed premises, or any premises on which refreshment is sold for consumption on the premises, or where intoxicating liquor is supplied to members

of any club, society, or association. (See *ante*, p. 48.)

- (4) Payment or contract on account of bands of music, torches, flags, banners, &c. (See *ante*, p. 50.)
- (5) Letting or hiring any carriage or horse for the conveyance of electors to the poll. (See *ante*, p. 51.)
- (6) Corruptly procuring the withdrawal of a candidate. (See *ante*, p. 42.)

A person guilty of an offence of illegal payment, employment or hiring is, on summary conviction, liable to a fine not exceeding one hundred pounds. Where the offence is committed by a candidate, or with his knowledge and consent, such candidate is guilty of an illegal practice. (M. E. C. I. P. A. 1884, sec. 17.)

Avoidance of election for extensive illegal practices, &c.—

Where, upon the trial of an election petition respecting a borough election, it is found by the election court that illegal practices or offences of illegal payment, employment or hiring, committed for the purpose of promoting the election of a candidate at that election, have so extensively prevailed that they may be reasonably supposed to have affected the result of that election, the election of such candidate, if he has been elected, is void, and he cannot, during the period for which he was elected to serve, or for which, if elected, he might have served, be capable of being elected to or holding the office of mayor, alderman or councillor of that borough. (M. E. C. I. P. A. 1884, sec. 18.)

*Relief by High Court where illegal practice, payment, &c., arises from inadvertence.—*Where, on application made, it is shown to the High Court, by such evidence as seems to the Court sufficient—

- (a) that any act or omission of a candidate at a borough election, or of any agent or other person, is an

illegal practice, payment, employment or hiring ; and

(b) that such act or omission arose from inadvertence, or from accidental miscalculation, or from some other cause of a like nature, and in any case did not arise from any want of good faith ; and

(c) that such notice of the application has been given in the borough as to the Court seems fit ;

and under the circumstances it seems to the Court to be just that such candidate, agent and person should not be subject to any of the consequences of that act or omission, the Court may make an order allowing such act or omission to be exempt from the provisions which would otherwise make it an illegal practice, payment, employment or hiring, and thereupon the candidate, agent or person is not subject to any of the consequences of the act or omission. (M. E. C. I. P. A. 1884, sec. 20.)

The application is usually made to the Divisional Court where no election petition is pending, and should be made immediately the offence is discovered, and may be made before the election is held. (*Kyd, Ex parte* (1897), 14 T. L. R. 64.) Notice of the application for relief should be given (1) to the opposing candidate or candidates, (2) to the returning officer, (3) by posting about the borough or ward, and (4) by advertisement in newspapers circulating in the borough. No notice to the Attorney-General is necessary. (*Lenanton, Ex parte* (1889), 53 J. P. 263; 5 T. L. R. 173.)

The application should be made upon affidavit, and, if made by joint candidates, a joint affidavit should be made by all the candidates. (*Andrews and others, In re; Streatham Vestry Election, In re the* (1899), 68 L. J. Q. B. 683; 43 Sol. J. 532.) The affidavit should state in a candid manner the facts upon which the application is made, showing that the offence arose from inadvertence, or accidental miscalculation, or some other reasonable cause of a like nature, and that in any case it did not arise from any want of good

faith. (*Lenanton, Ex parte, supra*; *Haseldine, Ex parte* (1895), 59 J. P. 71.) Ignorance of the law is not, as a rule, a sufficient or valid ground for relief. (*Walker, Ex parte* (1889), 22 Q. B. D. 384; 58 L. J. Q. B. 190.)

It will be observed that the power of the Court to grant relief does not extend to corrupt practices nor to any offence which is not an illegal practice, payment, employment or hiring. Therefore the Court has no power to grant relief to a person, other than a candidate, who prints or publishes a bill, placard, or poster which does not bear upon the face of it the name and address of the printer and publisher (*Lenanton, Ex parte, supra*), as that is not an illegal practice, payment, employment or hiring when done by a person other than the candidate, though it is an offence punishable by a fine. (See *ante*, p. 49.)

Where a voluntary canvasser hired a carriage for the conveyance of voters to the poll, the Court refused to make an order relieving the candidate, Wills, J., holding that no offence had been committed by the candidate if the hiring took place without his knowledge, and he did not therefore require relief; and that if it took place with his knowledge, he ought not to get relief. (*Exley, Ex parte, In re Election of Wharfedale Rural District Councillors* (1898), 62 J. P. 281.)

An appeal lies to the Court of Appeal against a refusal of the Divisional Court to make an order of relief. (*Walker, Ex parte, supra*; *Thomas, Ex parte* (1889), 60 L. T. 728.) Whether relief be granted or not, it is usual to grant against the applicant the costs of candidates opposing his application. (*School Board for London (Westminster Division), In re, Ex parte Kyd* (1897), 14 T. L. R. 154. For the numerous cases in which the Court has exercised its discretion, see 5 Times Law Reports; Day's Election Cases; and 4 and 5 O'Malley and Hardcastle.)

ELECTION PETITION.—Before embarking upon an election petition questioning the validity of a borough election,

an intending petitioner should, of course, seek legal advice and assistance. The subject is beyond the scope of this book, and the following points in regard to an election petition are only given in order to enable an intending petitioner to consider for himself whether he has a *prima facie* case before going to the expense of obtaining legal advice.

An election of mayor, alderman or councillor of a metropolitan borough may be questioned on the ground—

- (1) of general bribery, treating, undue influence or personation ; or
- (2) of corrupt practices ; or
- (3) of an illegal practice by a candidate or his agents ; or
- (4) of the extensive prevalence of illegal practices or offences of illegal payment, employment or hiring ; or
- (5) that the person whose election is questioned was at the time of his election disqualified ; or
- (6) that he was not duly elected by a majority of lawful votes.

An election cannot be questioned on any of these grounds except by election petition. (M. C. A. 1882, sec. 87 ; M. E. C. I. P. A. 1884, secs. 8 and 18 ; *Pritchard v. Mayor, &c. of Bangor* (1888), 13 App. Cas. 241 ; 57 L. J. Q. B. 39 ; *Reg. v. Morton*, (1892) 1 Q. B. 39 ; 61 L. J. Q. B. 39.)

Where a person becomes disqualified after election, and continues to act, the remedy is by an application to the High Court for an information in the nature of a *quo warranto* to inquire by what authority he acts, or by proceedings for penalties.

An election petition must be presented—

- (1) within twenty-one days after the day of election ; or
- (2) if it is on the ground of an illegal practice, within six weeks after the day of election ; or

(3) if the petition

- (a) complains of corrupt practices, and specifically alleges a corrupt payment or reward, promised or made after the election, by a person elected, or on his account or with his privity; or
- (b) complains of an illegal practice, and specifically alleges a payment of money or other act made or done since the election by the candidate elected, or by an agent of his, or with his privity;

within twenty-eight days after such payment, reward or act.

(M. C. A. 1882, sec. 88 (4); M. E. C. I. P. A. 1884, sec. 25 (2); Met. Boro. Councillors Election Order, 1900, r. 23 (5), *post*, Ch. V.)

A petition may be presented either by four or more persons who voted or had a right to vote at the election, or by a person alleging himself to have been a candidate at the election. (M. C. A. 1882, sec. 88 (1). See *Harford v. Linskey, ante*, p. 22.)

At the time of presenting an election petition, or within three days afterwards, the petitioner must deposit a security for costs to the amount of fifty pounds, unless the Court order a lesser or a larger amount not exceeding three hundred pounds. (M. C. A. 1882, sec. 89; Met. Boro. Councillors Election Order, 1900, r. 22 (2) (e), *post*, Ch. V.)

CHAPTER V.

METROPOLITAN BOROUGH COUNCILLORS
ELECTION ORDER, 1900.

To the County Council of the ADMINISTRATIVE
COUNTY OF LONDON ;—

To the vestries elected under the Metropolis
Management Acts, 1855 to 1893, or any Act
amending those Acts, for the several parishes
named in Part I. of the First Schedule to this
Order ;—

To the boards of works named in Part II. of the
First Schedule to this Order ;—

To the vestry clerks of the said parishes ;—

To the clerks to the said boards of works ;—

To the returning officers for the several Parlia-
mentary boroughs named in Part III. of the
First Schedule to this Order ;—

To the high bailiffs of Southwark and West-
minster ;—

And to all others whom it may concern.

Whereas by [reciting the London Government Act,
1899, ss. 1, 2 (1) (2) and (5), 3 (1), and 34 ; and the
Local Government Act, 1894, ss. 31 (1), 23 (2) (3) (4)
and (5), and 48 (2) (3) and (4)].

Now therefore, we, the Local Government Board, in
pursuance of the powers given to us in that behalf, do, by
this our Order, direct that the elections in the present year
of the councillors of every metropolitan borough shall,

subject to any directions which may be given by us, be conducted according to the following rules:—

Returning Officer.

1.—(1.) The person described in the second column of Parts I., II., and III. of the First Schedule to this Order shall in relation to the borough of which the name appears in the first column of any of the said parts opposite to the description of such person be the returning officer for such borough.

(2.) If in the case of any borough named in the first column of Parts I. and II. of the First Schedule to this Order there is more than one person holding the office described in the second column of either of the said parts opposite to the name of such borough, the vestry or board of works, as the case may be, shall determine which of such persons shall act as returning officer.

(3.) If in the case of any borough the person whose description appears in the second column of Parts I., II., or III. of the First Schedule to this Order opposite to the name of such borough is unwilling to act as returning officer, or if the office mentioned in the description of such person is vacant at the time when any duty relative to the election has to be performed by the returning officer, or if such person from illness or other sufficient cause is unable to perform such duty, the vestry in the case of any borough named in Part I., the board of works in the case of any borough named in Part II., and the Local Government Board in the case of any borough named in Part III. of the said Schedule shall appoint some other person to act as returning officer or to perform such of the duties of the returning officer as then remain to be performed, as the case may be.

(4.) The returning officer shall appoint an office for the purpose of the election.

(5.) The returning officer may, in writing, appoint one

or more fit persons to be his deputy or deputies for all or any of the purposes relating to the election, and shall appoint such a deputy in the case and for the purposes mentioned in Rule 17 (2) of this Order. A deputy returning officer shall have all the powers, duties, and liabilities of the returning officer in relation to the matters in respect of which he is appointed as deputy.

Notice of Election.

2. Not later than the day prescribed for that purpose by the Second Schedule to this Order, the returning officer shall prepare and sign a notice of the election, and shall cause public notice of the same to be given in the borough, in accordance with Rule 25 of this Order. The notice shall be in the Form No. 1 in the Third Schedule to this Order, or in a form to the like effect.

Nomination of Candidates.

3.—(1.) Each candidate for election as a borough councillor shall be nominated in writing.

(2.) The nomination paper shall state the name of the ward for which the candidate is nominated, the surname and other name or names in full of the candidate, and his place of abode and description, and whether he is qualified by being registered as a parochial elector of some parish in the borough, or by having during the whole of the twelve months preceding the election resided in the borough. It shall be signed by two parochial electors of the ward, as proposer and seconder, and no more, and shall state their respective places of abode. It shall be in the Form No. 2 in the Third Schedule to this Order, or in a form to the like effect.

(3.) The name of more than one candidate shall not be inserted in any one nomination paper.

(4.) A parochial elector shall not sign a number of nomination papers larger than the number of borough

councillors to be elected for the ward for which the election is to be held. He shall not sign a nomination paper for any ward in the borough, unless he is registered as a parochial elector in respect of a qualification in such ward. Nor shall he sign nomination papers for more than one ward in the borough.

(5.) If any parochial elector sign nomination papers for more than one ward in the borough, or sign a number of nomination papers larger than the number of borough councillors to be elected for the ward, such of the nomination papers signed by him as relate to the first ward for which a nomination paper signed by him is received by the returning officer shall alone be valid, and of the nomination papers signed by him which relate to such ward such as are first received by the returning officer up to the number of borough councillors to be so elected shall alone be valid. Provided that, for the purposes of this paragraph, nomination papers not properly filled up and signed shall be excluded.

Nomination Papers to be provided.

4. The returning officer shall provide nomination papers. Any parochial elector may obtain nomination papers from the returning officer free of charge.

Time for sending in Nomination Papers.

5. Every nomination paper shall be sent to the returning officer so that it shall be received at his office within the time prescribed for that purpose by the Second Schedule to this Order. A nomination paper received after that time shall not be valid. The returning officer shall note on each nomination paper whether it was received before or after that time.

Dealing with Nominations by Returning Officer.

6.—(1.) The returning officer shall number the nomination papers in the order in which they are received by him;

and the first valid nomination paper received for a candidate shall be deemed to be the nomination of that candidate.

(2.) The returning officer shall, as soon as practicable after the receipt of any nomination paper, examine the same, and decide whether it has or has not been properly filled up and signed as required by Rule 3 (2), and whether it is or is not invalid under Rule 3 (5) or Rule 5. His decision that a nomination paper has been so filled up and signed and is not invalid as aforesaid shall be final, and shall not be questioned in any proceeding whatever. [See *Harford v. Linskey, ante*, p. 22.]

(3.) If the returning officer decide that a nomination paper is invalid, he shall put a note on it to that effect, stating the grounds of his decision, and he shall sign such note.

(4.) After deciding that the nomination of any candidate is valid, or (except where a nomination of any candidate has been decided to be valid) that a nomination paper for the candidate is invalid, the returning officer shall, not later than the day prescribed for that purpose by the Second Schedule to this Order, send, by post or otherwise, notice of his decision to the candidate.

Statement as to Persons nominated.

7. Not later than the day prescribed for that purpose by the Second Schedule to this Order, the returning officer shall make out a statement in the Form No. 3 in the Third Schedule to this Order, or in a form to the like effect, containing the names, places of abode, and descriptions of the persons nominated as borough councillors for the several wards in the borough, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not. He shall forthwith cause a copy thereof to be affixed on or near to the principal external gate or door

of the offices of every vestry, board of works, local board of health, or urban district council which will, by or under the Act of 1899, be transferred to the council of the borough. If there are no such offices, he shall cause a copy of such statement to be posted in some conspicuous place or places within the borough.

Withdrawal of Candidate.

8. Any candidate may withdraw his candidature by delivering or causing to be delivered at the office of the returning officer, within the time prescribed for that purpose by the Second Schedule to this Order, a notice in writing of such withdrawal, signed by him. [See *ante*, p. 42.]

Relation of Nomination to Election.

9.—(1.) If the number of candidates for any ward who receive valid nominations and who do not withdraw their candidature under Rule 8 exceeds that of the persons to be elected as borough councillors for such ward the councillors shall be elected from amongst the persons nominated.

(2.) If the number of valid nominations for any ward does not exceed the number of borough councillors to be elected for such ward, or if, by the withdrawal of any candidate as provided by Rule 8, the number of candidates is reduced to a number not exceeding the number to be elected for such ward, or if the number of candidates is otherwise so reduced, the returning officer shall, as early as practicable, give public notice in the ward, in accordance with Rule 25 of this Order, to the effect that no poll will be taken, and that the candidates, or the remaining candidates, as the case may be, will be declared to be elected.

(3.) The returning officer shall forthwith send, by post or otherwise, a copy of any notice under this rule to each of the persons who will be declared to be elected.

(4.) The notice shall be in the Form No. 4 in the Third Schedule to this Order, or in a form to the like effect.

(5.) Section 56 of the Municipal Corporations Act, 1882, shall be deemed to be altered and adapted by this rule, so as to apply to the election of borough councillors for the several wards in the borough as herein provided.

Polling Districts.

10.—(1.) The returning officer may, if he thinks fit, divide any ward in the borough into polling districts for the election of borough councillors, but each district shall consist of an area for which a separate list of parochial electors will be available.

(2.) If any ward is divided into polling districts, each parochial elector shall give his vote in the polling district in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one polling district, he may vote in any one (but in one only) of the polling districts in which it is situate. [See *ante*, p. 44.]

Polling Places and Polling Stations.

11. The returning officer shall determine the number and situation of the polling places and polling stations.

Provided as follows:—

(a) No premises licensed for the sale of intoxicating liquor shall be used for a polling station:

(b) Where the number of parochial electors in the ward or (if the ward is divided into polling districts) in any polling district is not more than seven hundred only one polling station shall be provided for the ward or polling district; and so on for each additional seven hundred parochial electors, or for any less number of parochial electors over and above the last seven hundred.

Notice of the Poll.

12.—(1.) If a poll has to be taken for any ward in the borough, the returning officer shall, within the time prescribed for that purpose by the Second Schedule to this order, give public notice thereof in accordance with Rule 25 of this Order. The notice shall specify—

- (a) the day and hours fixed for the poll;
- (b) the number of borough councillors to be elected for the ward;
- (c) the names, place of abode, and description of each candidate for the ward whom he has decided to be nominated by a valid nomination paper, and who has not withdrawn his candidature;
- (d) the names of the proposer and seconder who signed the nomination paper of each candidate;
- (e) a description of the polling districts, if any; and
- (f) the situation and allotment of the polling places and polling stations, and the description of the persons entitled to vote thereat.

(2.) The notice shall be in the Form No. 5 in the Third Schedule to this Order, or in a form to the like effect.

Presiding Officers.

13. The returning officer, or some person appointed by him for the purpose, shall preside at each polling station. The person presiding at any polling station shall be called the presiding officer.

Compartments of Polling Stations.—Ballot Papers.

14. The returning officer shall furnish every polling station with a sufficient number of compartments in which the voters can mark their votes screened from observation, and shall furnish each presiding officer with such number of ballot papers as may be necessary for effectually taking the poll at the election.

Polling Agents.

15.—(1.) If the number of candidates for any ward in the borough exceeds three but does not exceed twenty, three polling agents, or if the number of candidates exceeds twenty but does not exceed forty, four polling agents, or if the number of candidates exceeds forty but does not exceed sixty, five polling agents, or if the number of candidates exceeds sixty, six polling agents may be appointed for each polling station.

(2.) Each appointment of a polling agent shall be in writing, signed by the candidate or candidates making the same, and shall be delivered at the office of the returning officer not less than two clear days before the day of the poll. Provided that no candidate shall sign more than one appointment of a polling agent for any polling station.

(3.) If the number of polling agents whose appointments have been so delivered is more than the number allowed as aforesaid, those whose appointments are signed by the larger number of candidates, up to the number allowed, shall alone be valid; or if, by reason of several appointments having the same number of signatures, the validity of the appointments cannot be decided as aforesaid, the returning officer shall determine which of the appointments so signed shall have effect.

(4.) Except as aforesaid, no polling agent, whether paid or unpaid, shall be appointed for the purposes of the election. [See *ante*, p. 46.]

Questions to Elector.

16.—(1.) The presiding officer may, and if required by any parochial elector of the ward or any polling agent appointed under Rule 15 shall, put to any elector at the time of his applying for a ballot paper, but not afterwards, the following questions, or one of them, and no other:—

(a) Are you the person entered in the parochial register for the Ward as follows [read the whole entry from the register]?

(b) Have you already voted at the present election of borough councillors for the borough of in this or any other ward?

(2.) A person required to answer either of these questions shall not receive a ballot paper or be permitted to vote until he has answered it.

Counting the Votes.

17.—(1.) The returning officer himself shall not count the votes in more than two wards.

(2.) For every ward in which the returning officer does not himself count the votes he shall appoint some person to act as deputy returning officer as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate, and of the election of the candidate or candidates to whom the largest number of votes has been given. The person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the returning officer in relation to the matters aforesaid, and to the decision of any question as to any ballot paper and otherwise as to the ballot papers.

(3.) The votes shall be counted in the borough, or in some place near thereto, as soon as practicable after the close of the poll.

Equality of Votes.

18. If an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer or deputy returning officer who counts the votes may, if a parochial elector of the ward for which the poll was taken, give such additional vote in writing, but shall not otherwise be entitled to vote at the election. If in such a case the returning officer, or deputy returning officer, as the case may be, is not a parochial elector of the

ward for which the poll was taken, or is unwilling to vote, he shall determine by lot which of the candidates whose votes are equal shall be elected.

Declaration of Result of Poll.

19.—(1.) The declaration of the result of the poll for any ward shall be in the Form No. 6 in the Third Schedule to this Order, or in a form to the like effect.

(2.) The returning officer, or deputy returning officer, as the case may be, who makes the declaration shall forthwith cause a copy of it to be affixed on the front of the building in which the votes have been counted. If the declaration is made by a deputy returning officer, he shall forthwith send it to the returning officer.

Publication of Result of Election.

20.—(1.) The returning officer shall prepare and sign a notice of the result of the election in all the wards of the borough, and shall by such notice declare to be elected the persons who, under rule 9, are to be declared to be elected without a poll being taken. Such persons shall be deemed to have been elected on the day of election. The notice shall be in the Form No. 7 in the Third Schedule to this Order, or in a form to the like effect.

(2.) The returning officer shall cause a copy of the notice to be suspended in the board room, if any, of each vestry, board of works, local board of health, or urban district council which will, by or under the Act of 1899, be transferred to the council of the borough, and he shall also cause public notice thereof to be given in accordance with rule 25 of this Order. The returning officer shall also send copies of the notice to the persons elected.

Application and Adaptation of Ballot Act, 1872.

21. The provisions of the Ballot Act, 1872, which, with adaptations and alterations, are set out in the Fourth

Schedule to this Order, and only such provisions of that Act, shall, subject to such adaptations and alterations and to the provisions of this Order, apply to the elections of borough councillors in like manner as in the case of a municipal election.

Adaptation of Municipal Corporations Act, 1882.

22.—(1.) The provisions of sections 74 and 75 of the Municipal Corporations Act, 1882, which, with adaptations and alterations, are set out in the Fifth Schedule to this Order, shall, subject to such adaptations and alterations, apply to the elections of borough councillors; and such of the provisions of that Act as relate to the acceptance of office, resignation, re-eligibility of holders of office, and filling of casual vacancies, and are, with adaptations and alterations, set out in the Sixth Schedule to this Order, shall, subject to such adaptations and alterations, apply to the election of borough councillors and to the persons elected thereat.

(2.) In the application of Part IV. of the Municipal Corporations Act, 1882 (relating to Corrupt Practices and Election Petitions), as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect:—

- (a) Such application shall be subject to the provisions of this Order.
- (b) References to the elections of borough councillors shall be deemed to be substituted for references to a municipal election or to an election to a corporate office. "Metropolitan borough" shall be substituted for "borough," "general rate" shall be substituted for "borough fund or borough rate," and "voter" shall mean "a parochial elector or a person who votes or claims to vote at an election of borough councillors."

(c) In the application of sub-section (2) of section 89 such sub-section shall be adapted and altered so as to read as follows :—

“(2.) The security shall be to the amount of fifty pounds, unless in any case the High Court or a judge thereof, on summons, order that the same be to a lesser amount, or to a larger amount not exceeding three hundred pounds, and shall be given in the prescribed manner either by a deposit of money or by recognisance entered into by not more than four sureties, or partly in one way and partly in the other.”

[*See ante, p. 63.*]

Adaptation of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

23. In the application of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, the following adaptations and alterations shall have effect :—

(1.) Such application shall be subject to the provisions of this Order.

(2.) References in the Act to a borough or ward of a borough shall be deemed to apply to a metropolitan borough or ward of a metropolitan borough, and the expression “general rate” shall be deemed to be substituted in the Act for “borough fund or rate.”

(3.) The expression “corporate office” in the Act shall mean “the office of borough councillor,” and “a municipal election” shall mean “an election of one or more borough councillors”; and the expressions “municipal election court,” “municipal election list,” and “municipal election petition” shall be construed accordingly.

- (4.) So much of section 13 of the Act as permits one polling agent to be employed in each polling station shall not apply, except so far as the employment of polling agents is permitted by Rule 15 of this Order. [See *ante*, p. 46.]
- (5.) An election petition complaining of the election on the ground of an illegal practice may be presented at any time within six weeks after the day of election. [See *ante*, p. 62.]
- (6.) In section 34 of the Act "burgess roll" shall mean "registers of parochial electors of the parishes in the borough which will be in force on the day of election." [See *ante*, pp. 47 and 48.]
- (7.) Section 37 of the Act shall be read as if a reference to an election of borough councillors were substituted for a reference to any of the elections mentioned in the First Schedule to the Act. [See *ante*, p. 46.]

Expenses.

24. Any sum which may be payable to the returning officer in respect of his services in the conduct of the election, or in respect of expenses incurred in relation to the election, shall be defrayed by order of the council of the borough out of the general rate of the borough. [See *ante*, p. 45.]

Publication of Notices.

25. Any public notice required by this Order shall be given by posting the same on or near the principal door of each church and chapel in the borough or ward, as the case may be, and in some conspicuous place or places within the borough or ward, as the case may be.

Mark instead of Signature.

26. In place of any signature required by this Order, it shall be sufficient for the signatory to affix his mark, if

the same is witnessed by two parochial electors of the borough.

Misnomer.—Inaccurate Description.

27. No misnomer or inaccurate description of any person or place named in any notice or nomination paper under this order shall hinder the full operation of such notice or paper with respect to that person or place, provided the description of that person or place is such as to be commonly understood.

Definitions.

28. In this Order :—

- (1.) The term “vestry clerk” means a vestry clerk appointed under the Vestries Act, 1850, under the Metropolis Management Acts, 1855 to 1893, or under any Act amending those Acts, or under any local Act.
- (2.) The term “day of election” means the day for the holding of the first election in any borough as fixed by or under section 3 (1) of the Act of 1899. [See *ante*, p. 41.]
- (3.) The term “parochial elector” means a person whose name is entered on the register of parochial electors which will be in force on the day of election, and the term “registered as a parochial elector” has a corresponding meaning.
- (4.) The term “resided in the borough” means resided in some place or places which will on the day of election be included in the borough.
- (5.) The term “parish” includes a parish as constituted by Order in Council under the Act of 1899.

This Order may be cited as the “Metropolitan Borough Councillors Election Order, 1900.”

FIRST SCHEDULE.

[See Rule 1, ante.]

PART I.

Name of Borough.	Description of Person to act as Returning Officer.
Battersea.....	The Vestry Clerk of the Parish of Saint Mary, Battersea.
Bethnal Green	The Vestry Clerk of the Parish of Saint Matthew, Bethnal Green.
Camberwell	The Vestry Clerk of the Parish of Camberwell.
Chelsea	The Vestry Clerk of the Parish of Chelsea.
Fulham	The Vestry Clerk of the Parish of Fulham.
Hackney.....	The Vestry Clerk of the Parish of Hackney.
Hammersmith	The Vestry Clerk of the Parish of Saint Peter and Saint Paul, Hammersmith.
Hampstead	The Vestry Clerk of the Parish of Saint John, Hampstead.
Islington	The Vestry Clerk of the Parish of Islington, Saint Mary.
Kensington	The Vestry Clerk of the Parish of Kensington, Saint Mary Abbot.
Lambeth.....	The Vestry Clerk of the Parish of Lambeth.
Paddington	The Vestry Clerk of the Parish of Paddington.
St. Marylebone	The Vestry Clerk of the Parish of Saint Marylebone.
St. Pancras	The Vestry Clerk of the Parish of Saint Pancras.
Shoreditch	The Vestry Clerk of the Parish of Shoreditch, Saint Leonard.
Deptford	The Vestry Clerk of the Parish of Saint Paul, Deptford.
Stoke Newington ..	The Vestry Clerk of the Parish of Saint Mary, Stoke Newington.

PART II.

Poplar.....	The Clerk to the Board of Works for the Poplar District.
Wandsworth	The Clerk to the Board of Works for the Wandsworth District.

PART III.

Name of Borough.	Description of Person to act as Returning Officer.
Stepney	The returning officer for the purposes of a Parliamentary election for the Parliamentary borough of Tower Hamlets.
Southwark	The high bailiff of Southwark.
Bermondsey	
Holborn	The returning officer for the purposes of a Parliamentary election for the Parliamentary borough of Finsbury
Greenwich	The returning officer for the purposes of a Parliamentary election for the Parliamentary borough of Greenwich.
Lewisham	The returning officer for the purposes of a Parliamentary election for the Parliamentary borough of Lewisham.
Woolwich	The returning officer for the purposes of a Parliamentary election for the Parliamentary borough of Woolwich.
Westminster	The high bailiff of Westminster.

SECOND SCHEDULE.

TIMES FOR THE PROCEEDINGS AT THE FIRST ELECTION OF BOROUGH COUNCILLORS.

Proceeding.	Time.
1. Notice of election	Not later than fourteen clear days before the day of election. [See rule 2, ante.]
2. Receipt of nomination papers..	Not later than twelve o'clock at noon on the tenth day before the day of election. [See rule 5, ante.]
3. Sending notice of decision as to validity of nomination papers, and making out statement as to persons nominated.	Not later than the ninth day before the day of election. [See rules 6, 7, ante.]
4. Withdrawal of candidates	Not later than twelve o'clock at noon on the sixth day before the day of election. [See rule 8, ante.]
5. Notice of poll.....	Two clear days at least before the day of election. [See rule 12, ante.]

THIRD SCHEDULE.

FORM No. 1. [See Rule 2, ante.]

Notice of Election.

Borough of

ELECTION OF BOROUGH COUNCILLORS

for the several wards in the above-named borough in
the year 19 .

Notice is hereby given that—

1. The number of councillors to be elected for the said
wards at the said election is as follows:—*[* *Insert the names of the wards, with the number
of persons to be elected for each. A tabular
form may be used if preferred.*]2. Each candidate for election as a councillor must be
nominated in writing in the form prescribed by the Metro-
politan Borough Councillors Election Order, 1900, or in a
form to the like effect, and the nomination paper must be
sent to me, so that it shall be received at (which is
my office for the purpose of the election) not later than
twelve o'clock at noon on , the day of ,
19 .3. A parochial elector must not sign more nomination
papers than there are councillors to be elected for the
ward, and he must not sign a nomination paper for any
ward unless he is entered on the register of parochial
electors which will be in force on the day of election in
respect of a qualification therein.* Nor must he sign
nomination papers for more than one ward in the
borough. [* *See post, p. 119, n.*]4. Copies of the form of nomination paper may be
obtained, free of charge, from me at the above-named
office.5. Not later than , the day of ,
19 , I shall cause a copy of a statement containing the
H. G

names, places of abode, and descriptions of the persons nominated for the office of councillor for the said wards, and also containing a notice of my decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not, to be affixed on or near to the principal external gate or door of .*

[* *Insert here the place or several places within the borough at which the statement is required by rule 7 to be posted.*]

6. Any candidate nominated for election may not later than twelve o'clock at noon on , the day of , 19 , withdraw his candidature by delivering or causing to be delivered at my office for the purposes of the election a notice in writing of such withdrawal signed by him.

7. If the number of candidates who are validly nominated for any ward, and whose candidature is not withdrawn, exceeds that of the persons to be elected, a poll will be taken on , the day of , 19 . Due notice of the poll will be given.

Dated this day of , 19 .

_____, Returning Officer.

Office for the purpose of election.

FORM No. 2. [See Rules 3—7, ante.]

Nomination Paper.

Borough of

ELECTION OF BOROUGH COUNCILLORS

for the ward of the above borough in the year 19 .

We, the undersigned, being respectively parochial electors of the said ward, do hereby nominate the under-

mentioned person as a candidate for the office of councillor at the said election.

Names of Candidate.		Place of Abode.	Description.	How qualified (specify qualification according to direction in Instruction 5).
Surname.	Other Names in full.	3.	4.	5.
1.	2.	3.	4.	5.

Signature of proposer _____

Place of abode _____

Signature of seconder _____

Place of abode _____

*Instructions for filling up Nomination Paper.**

[* *These instructions form part of the nomination paper.*]

1. The surname of only one candidate for election must be inserted in column 1.
2. The other names of the candidate must be inserted in full in column 2.
3. Insert in column 3 the place of abode of the candidate.
4. In column 4 state the occupation, if any, of the candidate. If the candidate has no occupation, insert some such description as "gentleman."
5. If the candidate is a parochial elector of some parish in the borough (that is if his name is entered on the register of parochial electors of such parish which will be in force on the day of election) insert in column 5 "parochial elector." If the candidate is not a parochial elector of some parish in the borough, but he has, during the whole of the twelve months preceding the election resided in some place or places which will on the day of election be included in the borough, insert in column 5 "residence." If the candidate has both these qualifica-

tions it will be sufficient to insert in column 5 one of his qualifications, but both may be inserted.

6.—(1) The paper must be signed by two parochial electors of the ward (that is by persons whose names are entered on the register of parochial electors for such ward which will be in force on the day of election) and no more; by one as proposer and by the other as seconder. The places of abode of the proposer and seconder must also be inserted. Instead of signing the proposer or seconder may affix his mark, if it is witnessed by two parochial electors of the borough.

(2) A parochial elector must not sign more nomination papers than there are councillors to be elected for the ward, and he must not sign a nomination paper for the ward unless his name is entered on the register of parochial electors for such ward which will be in force on the day of election.* Nor must he sign a nomination paper for more than one ward in the borough. [* *See post, p. 119, n.*]

FORM No. 3. [See Rule 7, ante.]

Statement as to Persons nominated.

Borough of

The following is a statement as to the persons nominated for election as councillors for the several wards in the above-named borough.

Names of Wards.	Persons nominated.			Decision of Returning Officer that Candidate has not been nominated by a valid Nomination Paper.
	Names (Surnames first).	Places of Abode.	Descriptions.	
1.	2.	3.	4.	5.

The candidates opposite whose names no entry is made in column 5 have been validly nominated.

Dated this day of , 19 .

_____, Returning officer.

____— Office for the purpose of election.

FORM No. 4. [See Rule 9, ante.]

Notice that no Poll will be taken.

Borough of

ward of the above borough.

Whereas the following candidates have been duly nominated for election as borough councillors for the said ward [insert names, places of abode, and descriptions of candidates].

And whereas the number of those

[or, And whereas [insert name or names] has [or have] since withdrawn his [or their] candidature [or if some other event has occurred causing a person to cease to be a candidate state what it is], and the number of the remaining] candidates is [equal to or less than] the number of persons, namely, to be elected as councillors for the said ward,

I do hereby give notice that a poll will not be taken as to the election of councillors for the said ward, and that the said [insert names] will be declared elected as councillors for the said ward.

Dated this day of , 19 .
_____, Returning Officer.

FORM No. 5. [See Rule 12, ante.]

Notice of Poll.

Borough of

ELECTION OF BOROUGH COUNCILLORS

for the ward of the above borough in the year
19 .

Notice is hereby given—

1. That a poll for the election of borough councillors for the above-named ward will be held on , the day of , 19 , between the hours of eight o'clock in the forenoon and eight o'clock in the afternoon.

2. That the number of councillors to be elected for the ward is

3. That the names in alphabetical order, places of abode, and descriptions of the candidates for election, and the names of their respective proposers and seconders are as follows :—

Names of Candidates (Surnames first).*	Places of Abode.	Descriptions.	Names of Proposers (Surnames first).	Names of Seconders (Surnames first).

[* *Insert particulars as to each candidate for the ward whose nomination is valid, and who has not withdrawn his candidature.*]

4.†—(1.) That each elector must vote in the polling district in which the property in respect of which he votes is situate, and if it is situate in more than one polling district he may vote in any one (but in one only) of such polling districts.

(2.) The polling districts are as follows :—

[† *If the ward is not divided into polling districts for the purpose of the election, paragraph 4 should be omitted.*]

5.‡ The situation and allotment of the polling places and polling stations and the description of the persons entitled to vote thereat are as follows :—

[‡ *If only one polling place or station, adapt form accordingly.*]

6. The poll will be taken by ballot.

Dated this _____ day of _____, 19_____.
_____, Returning Officer.

Office for the purpose of election.

FORM No. 6. [See Rule 19, ante.]

Declaration of Result of Poll.

Borough of

ELECTION OF BOROUGH COUNCILLORS

for the ward of the above borough in the
year 19 .

I, the undersigned, being the returning officer [*or* deputy returning officer duly authorised in that behalf] at the poll for the election of councillors for the said ward held on the day of , 19 , do hereby give notice that the number of votes recorded for each candidate at the election is as follows:—

Names of Candidates.		Places of Abode.	Number of Votes recorded.
Surnames.	Other Names.		

And I do hereby declare that the said are duly elected borough councillors for the said ward.

Dated this day of , 19 .

_____, Returning Officer

[*or* Deputy Returning Officer].

FORM No. 7. [See Rule 20, ante.]

Notice of Result of Elections.

Borough of

ELECTION OF BOROUGH COUNCILLORS

for the above borough in the year 19 .

I, the undersigned, being the returning officer at the election of borough councillors for the borough, do hereby

give notice that the candidates whose names are entered in column 6 of the statement hereunder opposite to the numbers entered in column 5 have been declared duly elected councillors; and I hereby declare that the persons whose names are entered in the said column 6, and opposite to whose names no numbers are entered in column 5, where no polls have been taken, were duly elected as councillors for the wards opposite to the names of which in column 1 the names of such persons are entered.

Names of Wards. 1.	Names of Candidates.		Places of Abode. 4.	Number of Votes recorded. 5.	Names of Candidates elected. 6.
	Surnames. 2.	Other Names. 3.			

Dated this day of , 19 .

—, Returning Officer.

FOURTH SCHEDULE.

Provisions of the Ballot Act, 1872, as adapted and altered in their application to the Elections of Metropolitan Borough Councillors.

PROCEDURE AT ELECTIONS OF METROPOLITAN BOROUGH COUNCILLORS.

Poll at Elections.

2. The ballot of each voter at an election of metropolitan borough councillors shall consist of a paper (in

this Act called a ballot paper) showing the names and descriptions of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting, the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called "the presiding officer") after having shown to him the official mark at the back.

If in the register of parochial electors for a parish, the same number is placed opposite to the name of more than one parochial elector, the returning officer shall put a distinguishing mark on each part of the register which contains numbers used in other parts of the register, and when the number of any voter on any part of the register is entered on the counterfoil of a ballot paper, the mark on that part shall also be entered thereon.

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted.

After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given. The

decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

OFFENCES.

Offences in respect of Ballot Papers and Ballot Boxes.

3. Every person who—

- (1.) Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper; or
- (2.) Without due authority supplies any ballot paper to any person; or
- (3.) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (4.) Fraudulently takes out of the polling station any ballot paper; or
- (5.) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election;

shall be guilty of a misdemeanour, and be liable, if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

In any indictment or other prosecution for an offence in relation to the ballot boxes, ballot papers, and marking instruments at an election, the property in such boxes, papers, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

Infringement of Secrecy.

4. Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of parochial electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, agent, and person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

USE OF SCHOOL AND PUBLIC ROOM FOR POLL.

6. The returning officer at an election of metropolitan borough councillors may use, free of charge, for the purpose of taking the poll or for counting the votes at such election, any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any local rate, but he shall make good any damage done to such room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of its being used for the purpose of taking the poll or for counting the votes as aforesaid.

The use of any room in an unoccupied house for taking the poll shall not render any person liable to be rated or to pay any rate for such house.

DUTIES OF RETURNING AND ELECTION OFFICERS.

General Powers and Duties of Returning Officer.

8. Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling stations, compartments, ballot boxes, ballot papers, stamping instruments, copies of register of parochial electors, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting the election. [See *post*, p. 116.]

Every deputy returning officer shall, in so far as he acts as returning officer, be deemed to be included in the term returning officer.

Keeping of Order in Station.

9. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding

officer, be removed from the polling station by any constable in or near that station, or any other person authorized in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace.

Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

Powers of Presiding Officer, and Administration of Oaths, &c.

10. For the purpose of the adjournment of the poll, a presiding officer shall have the power by law belonging to a deputy returning officer in a parliamentary election; and any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the oath authorized by law to be asked of and administered to voters, and any justice of the peace and any returning officer may take and receive any declaration authorized by this Act to be taken before him.*

* By the Representation of the People Act, 1832, and the Parliamentary Elections Act, 1835, a returning or deputy returning officer, or presiding officer, where the proceedings at any polling station are interrupted or obstructed by any riot or open violence, is required to adjourn the poll until the following day, and, if necessary, to further adjourn it until the interruption or obstruction ceases. If the following day is a Sunday, Good Friday, or Christmas Day, that day must be passed over, and the adjournment made to the day following such day. The deputy returning officer or the presiding officer, as the case may be, must forthwith give notice of the adjourn-

Liability of Officers for Misconduct.

11. Every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds.

No returning officer or officer appointed by him in connexion with the election of borough councillors for any metropolitan borough, nor any partner or clerk of any such officer, shall act as agent for any candidate in the management or conduct of his election as a borough councillor. If any returning officer or officer appointed by him, or the partner or clerk of any such officer, shall so act, he shall be guilty of a misdemeanour.

MISCELLANEOUS.*Prohibition of Disclosure of Vote.*

12. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

Non-compliance with Rules.

13. No election shall be declared invalid by reason of a defect in the title or appointment of the returning officer or deputy returning officer, or of a non-compliance with the rules contained in the First Schedule to this Act or in the Metropolitan Borough Councillors Election Order,

ment to the returning officer, who must not finally declare the state of the poll until the poll so adjourned has been finally closed.

For the oath which may be administered to voters, see rule 27, *post*; and as to the questions which may be asked of voters, see rule 16 of this Order, *ante*.

1900, or any mistake in the use of the forms in the Second Schedule to this Act or in the said Order, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of this Act and of the London Government Act, 1899, and of the Local Government Act, 1894, and that such non-compliance or mistake did not affect the result of the election.

PERSONATION.

Definition and Punishment of Personation.

24. The following enactments shall be made with respect to personation at an election of metropolitan borough councillors :—

It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the Court in the same manner in which courts are empowered to allow the same in cases of felony.

Sections 86 to 89, both inclusive, of the Parliamentary Voters Registration Act, 1843, shall apply to personation at an election of metropolitan borough councillors in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Act, but with the substitution of the words "any parochial elector or any agent appointed under the Metropolitan Borough Councillors Election Order, 1900," for "any such agent so appointed as aforesaid" or for any reference to any such

agent, and of "the presiding officer" for "the returning officer or his respective deputy."*

EFFECT OF SCHEDULES.

28. The schedules to this Act, and the notes thereto, and directions therein shall be construed and have effect as part of this Act.

* As amended by the above rule, section 86 of the Parliamentary Voters Registration Act, 1843, provides that where a parochial elector or a candidate's polling agent declares that a person voting is guilty of personation, the presiding officer shall, as soon as such person has voted, order any constable to take him into custody. The presiding officer, however, cannot reject the vote of any person who answers satisfactorily the questions authorised by rule 16 of this Order, *ante*, and takes the oath or makes the affirmation required by rule 27 of the First Schedule to the Ballot Act, 1872, *post*, but must cause the words "protested against for personation" to be placed against the vote. Section 87 provides that the constable shall take the person charged before two justices; or, if the attendance of two justices cannot be procured within three hours after the close of the poll, then, at his request, before a single justice, who must liberate him on his own recognizance with one sufficient surety to appear before two justices to answer the charge. Section 88 provides that if two justices are satisfied, on the oath of not less than two credible witnesses, that the person charged is guilty of personation, they shall commit him for trial. Section 89 provides that if the two justices are satisfied that the person charged is not guilty of personation, or if the parochial elector or polling agent making the charge, or someone on his behalf, does not appear to support the charge, they may make an order in writing on such parochial elector or polling agent to pay any sum not exceeding 10*l.* nor less than 5*l.*, by way of damages and costs, to the person charged, if he consents to accept it. If a person consents to accept such compensation, and the amount is paid, the parochial elector, polling agent, candidate, and every other person is released from all actions or other proceedings in respect of the charge. (See also *ante*, pp. 52, 55, 56.)

SCHEDULES TO ACT.

FIRST SCHEDULE TO ACT.

RULES FOR ELECTIONS OF METROPOLITAN BOROUGH
COUNCILLORS.*The Poll.*

15. At every polling place the returning officer shall, subject to the provisions of the Metropolitan Borough Councillors Election Order, 1900, provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst those electors in such manner as he thinks most convenient.

17. A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth.

18. No person shall be admitted to vote at any polling station except the one allotted to him.

20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret.

21. The presiding officer appointed to preside at each station shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

22. Every ballot paper shall contain a list of the candidates described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with

the same surname) of their other names: it shall be in the form set forth in the Second Schedule to this Act or as near thereto as circumstances admit, and shall be capable of being folded up.

23. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector, together with the distinguishing mark, if any, of the part of the register in which the number occurs shall, as required by Section 2 of this Act as adapted, be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

26. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, or (if

the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as hereinafter mentioned that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list, in this Act called "the list of votes marked by the presiding officer."

The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form hereinafter mentioned, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

27. If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions permitted by the Metropolitan Borough Councillors Election Order, 1900,* to be asked of voters at the time of polling, and upon taking an oath in the form hereinafter set out, which the presiding officer shall administer, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Act called "a tendered ballot paper") shall be of a colour differing from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his

* See rule 16 of the Order, *ante*.

number in the register of voters, and set aside in a separate packet and shall not be counted by the returning officer. And the name of the voter and his number on the register shall be entered on a list, in this Act called "the tendered votes list."

The oath shall be administered in the following form:—

"You do swear that you are the same person whose
"name appears as A. B. on the Register of Paro-
"chial Electors for the Ward of the
"Borough of , and that you have not
"already voted at the present election of Council-
"lors in this or any other Ward in the Borough.
"So HELP YOU GOD."

Provided that any person entitled to affirm in lieu of taking an oath may affirm in the following form:—

"I, A. B., do solemnly, sincerely, and truly declare
"and affirm that I am the same person whose
"name appears as A. B. on the Register of Paro-
"chial Electors for the Ward of the
"Borough of , and that I have not
"already voted at the present election of Council-
"lors in this or any other Ward in the Borough."

28. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called "a spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

29. The presiding officer of each station, as soon as practicable after the close of the poll, shall make up into separate packets sealed with his seal,—

- (1) Each ballot box in use at his station, unopened but with the key attached ; and
- (2) The unused and spoilt ballot papers, placed together ; and
- (3) The tendered ballot papers ; and
- (4) The marked copies of the register of parochial electors, and the counterfoils of the ballot papers ; and
- (5) The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read ;

and shall deliver such packets to the returning officer, or deputy returning officer, by whom the votes are to be counted, unless he is himself such officer.

30. The packets shall be accompanied by a statement made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

Counting Votes.

31. The provisions of rule 15 of the Metropolitan Borough Councillors Election Order, 1900, as to the appointment of polling agents, shall apply to agents to attend the counting of the votes, except that the number of such agents may be twice as many as the number of polling agents in the said rule mentioned. [See *ante*, pp. 47 and 72, and also rule 51, *post*.]

32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed

to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

33. The returning officer, his assistants and clerks, the agents of the candidates, and any person to whom rule 51 of this Schedule applies, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

34. Before the returning officer proceeds to count the votes, he shall in the presence of the agents of the candidates, open each ballot box, and taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes.

The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding, if and so far as he thinks it necessary, the hours between the close of the poll and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

36. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to," if an objection be in fact made by any agent to his decision. The returning officer shall draw up a statement showing

the number of ballot papers rejected and not counted by him under the several heads of—

1. Want of official mark ;
2. Voting for more candidates than entitled to ;
3. Writing or mark by which voter could be identified ;
4. Unmarked or void for uncertainty ;

and shall on request allow any agents of the candidates to copy such statement. If the votes are counted by a deputy returning officer he shall, with the declaration of the result of the poll, report to the returning officer the number of ballot papers rejected and not counted by him, under the above heads, and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any agents of the candidates, before such report is sent in, to copy it.

37. Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed, in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall draw up a statement as to the result of such verification, and shall, on request, allow any agents of the candidates to copy it.

If the votes are counted by a deputy returning officer, he shall report to the returning officer the result of the verification, and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any agents of the candidates, before such report is sent in, to copy it. He shall with his report send to the returning officer the sealed packets of counted and rejected ballot papers, and the unopened

sealed packets which he has received from any presiding officer.

38. Lastly, the returning officer shall carefully preserve for the period hereinafter mentioned all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the borough and ward for which such election was held.

39. The returning officer shall retain for six months all the documents referred to in the last preceding rule, and then, unless otherwise directed by an order of the County Court having jurisdiction in the borough or in any part thereof, or of any tribunal in which the election is questioned, shall cause them to be destroyed.

40. No person shall be allowed to inspect any rejected ballot papers in the custody of the returning officer, except under the order of the County Court or tribunal aforesaid, to be granted by such Court or tribunal on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the Court or tribunal making the same may think expedient, and shall be obeyed by the returning officer.

41. No person shall, except by order of the County Court having jurisdiction in the borough or in any part thereof, or of any tribunal having cognizance of any question relating to the election, open the sealed packet of counterfoils after the same has been once sealed up, or be

allowed to inspect any counted ballot papers in the custody of the returning officer. Such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the Court or tribunal making the order may think expedient: Provided that on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent Court to be invalid.

42. All documents in the custody of a returning officer, in pursuance of this Act, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may hereafter be prescribed by the London County Council, and the returning officer shall supply copies of or extracts from the said documents to any person demanding the same, on payment of such fees and subject to such regulations as may hereafter be prescribed by the county council.

43. Where an order is made for the production by the returning officer of any document in his possession relating to any specified election of borough councillors the production by such officer or his agent of the document ordered, in such manner as may be directed by such order, or by an order of the Court having power to make such first-mentioned order, shall be conclusive evidence that such document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by such returning officer or his agent shall be evidence of such papers being what they are stated to be by the endorsement. The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *prima facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had affixed to his name in the register of voters at

such election the same number as the number written on such counterfoil.

43a. There shall be an appeal from any order of the County Court under these rules in like manner as in other cases in such Court.

General Provisions.

47. If the returning officer presides at any polling station, the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

48. The returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

49. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorised to do by this Act at a polling station except ordering the arrest, exclusion, or ejection from the polling station of any person.

51. If a candidate or candidates shall have appointed an agent under rule 31 of this schedule, such candidate, or, as the case may be, one of such candidates, may take the place of the agent so appointed. If a candidate has not appointed or joined in appointing such an agent, and the number of such agents is less than the number allowed by that rule, the candidate may act as his own agent; but if the number of candidates applying to act under this rule would bring up the number of persons (including candidates) acting as agents to a number exceeding that allowed by rule 31, the returning officer may decide which of the candidates shall be allowed to act as agent: Provided that any person acting under this rule may, at any time before

so acting, make the statutory declaration required by rule 54 of this schedule, but he shall not so act until he has made such declaration.

52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll; and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.

53. If any person appointed an agent for the purposes of attending a polling station or at the counting of the votes dies or becomes incapable of acting during the time of the election, another agent may be appointed in his place, and notice shall forthwith be given to the returning officer in writing of the name and address of any agent so appointed.

54. Every returning officer, and every officer, clerk, or agent authorised to attend at a polling station, and also every officer, clerk, or agent authorised to attend at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or an agent, of a justice of the peace or of the returning officer; but no such returning officer, officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election.

55. Where in this Act any expressions are used requiring or authorising or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorised to attend, and as have in fact attended, at the time and place

where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

SECOND SCHEDULE TO ACT.

Note.—The forms contained in this schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

Counterfoil No.

NOTE. — *The Counterfoil is to have a number to correspond with that on the back of the Ballot Paper.*

Form of Ballot Paper.

Form of Front of Ballot Paper.

ELECTION OF BOROUGH COUNCILLORS.

1	BLAKE (Thomas Blake, of 59, St. George's Place, Surgeon.)	
2	GIBSON (Henry Gibson, of 10, High Street, Oilman.)	
3	JOHNSON (Charles Johnson, of 7, Hanover Square, Gentleman.)	
4	ROBINSON (Herbert Edward Robinson, of 12, Green Street, Solicitor.)	
5	THOMPSON (William Henry Thompson, of 14, Queen Street, Silversmith.)	
6	WATSON (Robert Watson, of 22, Albion Street, Chemist.)	

Form of Back of Ballot Paper.

No.

Election of borough councillors for the ward
of the borough in the year 19 .

Note.—The number on the ballot paper is to correspond
with that on the counterfoil.

Directions as to printing Ballot Paper.

Nothing is to be printed on the ballot paper except in accordance with this schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, and the names, places of abode, and descriptions, and the number on the back of the paper, shall be printed in small characters.

*Form of Directions for the Guidance of the Voter in voting,
which shall be printed in conspicuous Characters, and
placarded outside every Polling Station and in every Com-
partment of every Polling Station.*

The voter may vote for candidates.

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus **X**.

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than candidates, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanour, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

Note.—These directions shall be illustrated by examples of the ballot paper.

Form of Statutory Declaration of Secrecy.

I solemnly promise and declare, That I will not at this election of borough councillors for the ward of the borough of , do anything forbidden by section four of the Ballot Act, 1872, which has been read to me.

Note.—The section must be read to the declarant by the person taking the declaration. One declaration may be made by the returning officer in respect of all the wards for which he is returning officer.

Form of Declaration of Inability to Read.

I, A.B., of , being numbered on the register of parochial electors for the parish of , do hereby declare that I am unable to read.

A.B., his mark.
day of 19 .

I, the undersigned, being the presiding officer for the polling station for the ward of the borough of , do hereby certify that the above declaration, having been first read to the above-named A.B., was signed by him in my presence with his mark.

Signed, C.D.,
Presiding officer for polling station
for the ward of the borough
of .
day of 19 .

FIFTH SCHEDULE.

Sections 74 and 75 of the Municipal Corporations Act, 1882,
as adapted and altered in their Application to the
Election of Metropolitan Borough Councillors.

Offences in relation to Nomination Papers.

74.—(1.) If any person forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any forged nomination paper, knowing it to be forged, he shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding six months, with or without hard labour.

(2.) An attempt to commit any such offence shall be punishable as the offence is punishable.

*Neglect of Duty by Returning Officer or Deputy
Returning Officer.*

75.—(1.) If a person who has undertaken to act as returning officer, or deputy returning officer, at an election of metropolitan borough councillors neglects or refuses to conduct or declare the election in manner provided by the London Government Act, 1899, the Local Government Act, 1894, and the Metropolitan Borough Councillors Election Order, 1900, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.

(2.) An action under this section shall not lie after three months from the neglect or refusal.

SIXTH SCHEDULE.

Provisions of the Municipal Corporations Act, 1882, with respect to the Acceptance of Office, Resignation, Re-eligibility of Holders of Office, and filling of Casual Vacancies, as adapted and altered in their Application to the Election of Metropolitan Borough Councillors and to the Persons elected thereat.

Obligation to accept Office or pay Fine.

34.—(1.) Every qualified person elected to the office of metropolitan borough councillor, unless exempt under this section or otherwise by law, either shall accept the office by making and subscribing the declaration required by this Act within one month after notice of being elected, or shall, in lieu thereof, be liable to pay to the council of the borough a fine of such amount, not exceeding fifty pounds, as the council of the borough by regulations determine.

(2.) If there are no regulations determining fines, the fine shall be twenty pounds.

(3.) The persons exempt under this section are—

Any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body.

(4.) A fine payable under this section shall be recoverable summarily.

(5.) If a person is elected as councillor in more than one ward in the borough for which the election is held, he shall not accept office in respect of more than one of such wards, and if he accepts office or pays the fine for non-acceptance of office in respect of one ward he shall not be liable to a fine for non-acceptance of office in respect of any other of such wards.

(6.) Any person who has been nominated and elected without his consent to his nomination being previously obtained shall not be liable to a fine under this section. [See *ante*, pp. 29—33.]

Declaration on Acceptance of Office.

35.—(1.) A person elected to the office of metropolitan borough councillor shall not until he has made and subscribed before two members of the borough council of the borough, or the town clerk, or, if he is absent from the United Kingdom, before a British Consul, a declaration in the following form or in a form to the like effect, act in the office except in administering that declaration:—

FORM OF DECLARATION ON ACCEPTANCE OF OFFICE.

I, A. B., having been elected councillor for the ward of the borough of _____, hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.

Dated this _____ day of 19 .

This declaration was made and subscribed before us*

Members of the council of the { _____
above-named borough. { _____

[* *If the declaration is made and subscribed before the town clerk or a consul, adapt form accordingly.]*

(2.) For the purpose of any provision relating to any such declaration the expression "town clerk" shall include any person performing temporarily the duties of town clerk, or, until a person is appointed to perform such duties, the clerk to any vestry, board of works, local board of health, or urban district council who will, by or under the Local Government Act, 1899, be transferred to the borough council. [See ante, pp. 32, 33.]

Power to receive Declaration.

239.—(1.) Members of the council of the borough or the town clerk or a British Consul shall have authority to

receive the declaration required to be made by a councillor without any commission or authority other than this Act.

(2.) The declaration, if made before a British Consul, shall be forthwith sent to the town clerk. [See *ante*, p. 32.]

Penalty on acting in Office without making Declaration.

41. If any person acts in the office of metropolitan borough councillor without having made the declaration by this Act required, he shall for each offence be liable to a fine not exceeding twenty pounds, recoverable by action. [See *ante*, p. 32.]

Resignation of Office.

36.—(1.) A person elected as metropolitan borough councillor may at any time, by writing signed by him and delivered to the town clerk of the borough, resign the office, on payment of the fine provided for non-acceptance thereof.

(2.) In any such case the council of the borough shall forthwith declare the office to be vacant, and signify the same by notice in writing, signed by three members of the council of the borough, and countersigned by the town clerk, and fixed on the principal external gate or door of the offices of the council of the borough, and the office shall thereupon become vacant. [See *ante*, p. 28.]

Re-eligibility of Office-holders.

37. A person ceasing to hold the office of metropolitan borough councillor shall, unless disqualified to hold the office, be re-eligible. [See *ante*, p. 16.]

Filling of Casual Vacancies.

40.—(1.) On a casual vacancy in the office of metropolitan borough councillor, an election shall be held in accordance with the rules framed under the London Government Act, 1899, and the Local Government Act, 1894; and the person elected shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office.

(2.) In case of more than one casual vacancy in the office of metropolitan borough councillor being filled at the same election, the councillor elected by the smallest number of votes shall be deemed to be elected in the place of him who would regularly have first gone out of office, and the councillor elected by the next smallest number of votes shall be deemed to be elected in the place of him who would regularly have next gone out of office, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of rotation shall be determined by the council of the borough.

(3.) Non-acceptance of office by a person elected creates a casual vacancy.

Time for filling Casual Vacancies.

66.—(1.) On a casual vacancy in the office of metropolitan borough councillor, the election shall be held within one month after notice in writing of the vacancy has been given to the mayor or to the town clerk by two councillors.

(3.) The day of election shall be fixed by the town clerk.

(4.) Nothing in this Act shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs,

and the vacancy shall be filled at the next ordinary election.

Given under the Seal of Office of the Local Government Board, this Twenty-fifth day of August, in the year One thousand nine hundred.

[L.S.] (Signed) **HENRY CHAPLIN,**
President.

(Signed) **S. B. PROVIS,**
Secretary.

Loan of Ballot-boxes, &c., by Public Authority.

By rule 14 of the Metropolitan Borough Councillors Election Order, 1900, *ante*, p. 71, and sec. 8 of the Ballot Act, 1872, *ante*, p. 92, the returning officer is required to provide the necessary polling-stations, compartments, ballot-boxes, &c. The Local Government Act, 1894, s. 48 (6), further provides that "Any ballot-boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipal, school board, or other), shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer for an election under this Act, upon such conditions and either free of charge or, except in the prescribed cases, for such reasonable charge as may be prescribed."

APPENDIX.

METROPOLITAN BOROUGHHS (FIRST ELECTION AND FIRST MEETING) ORDER IN COUNCIL, 1900.

At the Court at Osborne House, Isle of Wight, the 7th day of August, 1900.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas by section twenty-seven of the London Government Act, 1899 (in this Order referred to as the Act), it is amongst other things enacted that an Order in Council under the Act shall

- (i) fix the days, years and times for the retirement of the first aldermen and councillors; and
- (ii) give such directions as to the first meeting of the metropolitan borough councils, and make such other temporary modifications of the provisions of the Act, as may appear to Her Majesty to be necessary or proper for making those provisions applicable in the case of the first constitution of a metropolitan borough council.

Now, therefore, Her Majesty by and with the advice of Her Privy Council, and by virtue of the authority committed to Her by the Act, and of all other powers enabling Her in that behalf, for the purposes aforesaid, is pleased to order, and it is hereby ordered, as follows:—

1. *Retirement of first aldermen and councillors.*—The days, years and times specified in the First Schedule to this Order shall be the days, years and times for the retirement of the first aldermen and councillors:

Provided that, if before the first day of November, one

thousand nine hundred and three, the Local Government Board makes an order as respects any metropolitan borough directing that the whole of the councillors shall retire together on the ordinary day of election in every third year, the aldermen of that borough who (if such an Order had not been made) would have retired on the ninth day of November, one thousand nine hundred and three, shall retire on the ninth day of November next after the day of election on which the whole of the councillors for the first time retire together, and the aldermen of that borough who would have retired on the ninth day of November, one thousand nine hundred and six, shall retire on the ninth day of November next after the day of election on which the whole of the councillors for the second time retire together. [See *ante*, p. 27.]

2. *Provisions as to first election.*—(1.) For the purpose of the first election of borough councillors under the Act, and of all proceedings preliminary to that election, any alteration in any boundary effected by any Order in Council under the Act shall take effect at such times before the day on which the election is held as may be necessary.

(2.) In and for the purposes of the provisions of the Act and any enactment applied thereby and any Order made thereunder relating to proceedings preliminary to or in connection with the first election of borough councillors, the registers of persons entitled to vote at that election which will be in force on the day on which the election is held shall be deemed to be the registers in force, and a person whose name is inserted in one of the lists from which any such register will be made up shall be deemed to be entered on that register although that register is not yet completed. The town clerk within the meaning of the Acts relating to the registration of electors shall give to the persons appointed to act as returning officers at the first election of the councillors of a metropolitan borough all reasonable facilities for inspecting and for taking copies

of and extracts from the lists which are in his possession or control.*

3. *Qualification by residence.*—For the purpose of the qualification of a person to be elected or to be a councillor of the first council of a metropolitan borough, residence before the day on which the first election of borough councillors is held in any place which will be included in a borough shall be deemed to be residence in that borough.
[See *ante*, p. 14.]

4. *Date on which borough councillors come into office.*—The persons elected to be the first councillors of any metropolitan borough shall come into office on the day on which the first meeting of the borough council is held.

5. *Preliminary meeting of borough councillors.*—
(1.) The person appointed to act as returning officer at the first election of the councillors of a metropolitan borough shall summon a preliminary meeting of the councillors elected for the borough to be held on the fourth day (excluding Sunday) after the day on which the first election of borough councillors under the Act is held; and for that purpose shall, on the day next after that on which the election is held send by post to or deliver at the address of each person elected to be a

* See *ante*, p. 42. The register of persons entitled to vote at an election of borough councillors is in each year to be printed and signed before the 20th October, and to come into operation on the 1st November. Lon. Gov. Act, 1899, s. 3 (4); Lon. Regn. (Temp.) O. in C. 1900, cl. 1. The "town clerk" within the meaning of the Acts relating to the registration of electors is now the high bailiff in the city of Westminster and in the borough of Southwark, and the returning officer for Parliamentary elections, or such person as he may appoint for that purpose, in other metropolitan boroughs. [Registration Act, 1843, ss. 56, 101; Redistribution of Seats Act, 1885, s. 12 (5).] On the borough councils coming into office, the town clerks appointed by the councils will be the "town clerks" within the meaning of the Acts relating to the registration of electors. [London Government Act, 1899, s. 4 (1).] As to the returning officer at the first election of borough councillors, see the Metropolitan Borough Councillors Election Order, 1900, r. 1, *ante*, ch. v.

councillor of the borough a notice specifying the day, hour and place at which the meeting will be held.

(2.) The councillors may, at the preliminary meeting or at any adjournment thereof held before the day on which the first meeting of the council under this Order is held, take into consideration the arrangements to be made for taking over the powers and duties which will, on the day on which the councillors come into office, be transferred to the borough council, and for bringing into operation such of the provisions of the Act as will come into force on that day, and any recommendations made by the councillors with respect thereto shall be laid before the first meeting of the borough council.

(3.) The persons who at that time hold the offices of clerk or acting clerk of any vestry, district board of works, local board of health, or urban district council, who will by or under the Act be transferred to the council of a metropolitan borough, shall be in attendance at the preliminary meeting of the councillors of the metropolitan borough to the council of which they will be so transferred; and at any adjourned preliminary meeting of the councillors such of the officers who will be transferred to the council as the councillors require shall so attend. Every such officer shall furnish to the councillors such assistance and information as is in his power.

(4.) The councillors shall at the meeting or at any adjournment thereof appoint such person as they think fit to record the proceedings of the councillors, and shall in the case of any adjournment of the meeting provide for notice of the time and place to which the meeting is adjourned being given to the councillors not present at the time of the adjournment.

(5.) The councillors may at the preliminary meeting, or at any adjournment thereof, appoint two or more persons, one of whom shall act as temporary chairman of the first meeting of the council until a chairman of that meeting is appointed in accordance with the provisions of

section seven of this Order, and shall determine to which of those persons preference is to be given in the matter, in accordance with the form contained in the Second Schedule to this Order, or in a form to the like effect.

(6.) For the purpose of holding the meeting and any such adjourned meeting, the councillors shall be entitled to use any building of any authority whose powers and duties will be transferred to the borough council, so, however, that they do not interfere with the transaction of business by the authority or any committee thereof.

(7.) A councillor may attend the meeting or any adjourned meeting, and take part in the proceedings transacted thereat, without having made or subscribed a declaration on acceptance of office.

(8.) Nothing in any Order in Council establishing a metropolitan borough, or in this Order, shall affect the powers, duties, or jurisdiction of any authority whose powers and duties are transferred to the councils of metropolitan boroughs before the day on which the first councillors elected under the Act come into office.

6. *Acting Town Clerk.*—(1.) Until a town clerk of any metropolitan borough is appointed, such one or more of the persons who, immediately before the day on which the first election of borough councillors under the Act is held, were the persons holding the offices of clerk or acting clerk of any vestry, district board of works, local board of health, or urban district council, who are by or under the Act transferred to the council of that borough, or such other person or persons as that council at the first meeting of the council appoint, shall perform the duties of town clerk of the borough, and if more than one person is appointed to perform those duties, each person so appointed shall perform such of those duties as may be assigned to him by the council.

Provided that the acceptance of the office of acting town clerk shall not prejudice any right to compensation to

which the officer accepting the office might otherwise be entitled under section thirty of the Act.

(2.) Each of the persons who so held any of the said offices shall be in attendance at the time and place fixed for the first meeting of the borough council, and shall furnish to the council such assistance and information as is in his power.

7. *First Meeting of Borough Council.*—(1.) The first meeting of the council of each metropolitan borough shall be held at noon on the day fixed by the Lord President of the Council for the first elections of mayor and aldermen under the Act, at such one of the buildings of any authority whose powers and duties are transferred to the borough council as is specified in the notice summoning the meeting.

(2.) The person appointed to act as returning officer at the first election of the councillors of any metropolitan borough shall summon the first meeting of the council of that borough, and for that purpose shall, at least three clear days before the time fixed for the meeting, send by post to or deliver at the address of each of the persons elected to be councillors of that borough a notice specifying the day, hour and place at which the first meeting of the council will be held.

(3.) If a person has not been appointed to act as temporary chairman of the first meeting of the council in accordance with the provisions of section five of this Order, or if such a person has been appointed, but is not willing to act or is not present at the time fixed for the first meeting of the council, or as soon thereafter as a quorum of councillors is present, then the councillor elected at the first election of councillors by the largest number of votes who is present at such time as aforesaid, and who is willing to act, shall act as temporary chairman. As between two persons who receive an equal number of votes, priority shall be determined by lot.

(4.) The temporary chairman shall preside until a chairman is elected as next hereinafter provided, and as

soon as the temporary chairman has taken the chair the first business shall be the election of chairman. The person receiving the largest number of votes shall be elected chairman. If two or more councillors receive an equal number of votes the election as between them shall be decided by lot. The person so elected chairman shall not be elected mayor, nor, if he presides at the proceedings for the election of aldermen, an alderman.

(5.) The person so elected chairman shall in the subsequent proceedings for the election of the mayor, and, if the person elected mayor is not present, for the election of aldermen, preside and have a second or casting vote in the event of there being an equality of votes on any question.

(6.) As soon as a chairman is elected the councillors shall proceed to the election of a mayor. [See *ante*, p. 36.]

(7.) As soon as a mayor is elected the mayor and councillors, or, if the mayor is not present, the councillors shall proceed to the election of aldermen. [See *ante*, p. 37.]

(8.) When the mayor and aldermen have been elected the council may proceed to appoint one or more persons in accordance with the provisions of this Order to perform temporarily the duties of town clerk until the town clerk is appointed, and to transact all such other business as they may think necessary for regulating the affairs of the borough, including the adoption, with or without modifications, of all or any of such recommendations of the borough councillors as aforesaid.

(9.) An election of a chairman, or the mayor, or the aldermen under this section shall not be proceeded with unless at least one-third of the councillors are present.*

8. *Short title.*—This Order may be cited as the Metropolitan Boroughs (First Election and First Meeting) Order in Council, 1900.

A. W. FITZROY.

* The statutory quorum of the borough council is one-third of the whole number of the council.—London Government Act, 1899, sec. 2 (6).

SCHEDULES.

SCHEDULE I.

DATES FOR RETIREMENT OF THE FIRST ALDERMEN
AND COUNCILLORS.

Persons to Retire.	Date of Retirement.
The one half of the aldermen who first go out of office shall be those who are elected by the smallest number of votes and they shall go out of office on	The 9th day of November, 1903.
The remaining aldermen shall go out of office on	The 9th day of November, 1906.
In the case of a ward for which three councillors are elected—	
(a) The councillor who is elected for that ward by the smallest number of votes shall go out of office on	The 1st day of November, 1901.
(b) The councillor who is elected for that ward by the next smallest number of votes shall go out of office on	The 1st day of November, 1902.
(c) The remaining councillor who is elected for that ward shall go out of office on	The 1st day of November, 1903.
In the case of a ward for which six councillors are elected—	
(a) The two councillors who are elected for that ward by the smallest number of votes shall go out of office on	The 1st day of November, 1901.
(b) The two councillors who are elected for that ward by the next smallest number of votes shall go out of office on	The 1st day of November, 1902.
(c) The remaining two councillors who are elected for that ward shall go out of office on	The 1st day of November, 1903.
In the case of a ward for which nine councillors are elected—	
(a) The three councillors who are elected for that ward by the smallest number of votes shall go out of office on	The 1st day of November, 1901.
(b) The three councillors who are elected for that ward by the next smallest number of votes shall go out of office on	The 1st day of November, 1902.
(c) The remaining three councillors who are elected for that ward shall go out of office on	The 1st day of November, 1903.

If any councillor elected for the same ward or any aldermen have obtained an equal number of votes, or have been elected without a poll, so that it cannot be determined which of them has the smallest number of votes, the council of the borough shall at a meeting of the council held not later than the first day of July one thousand nine hundred and one determine which of the councillors or aldermen who have obtained an equal number of votes, or which of the councillors who have been elected without a poll, are to go out of office at the times above specified.

If the total number of aldermen is not divisible by two the larger half shall retire on the ninth day of November, one thousand nine hundred and three. [See *ante*, p. 27.]

SCHEDULE II.

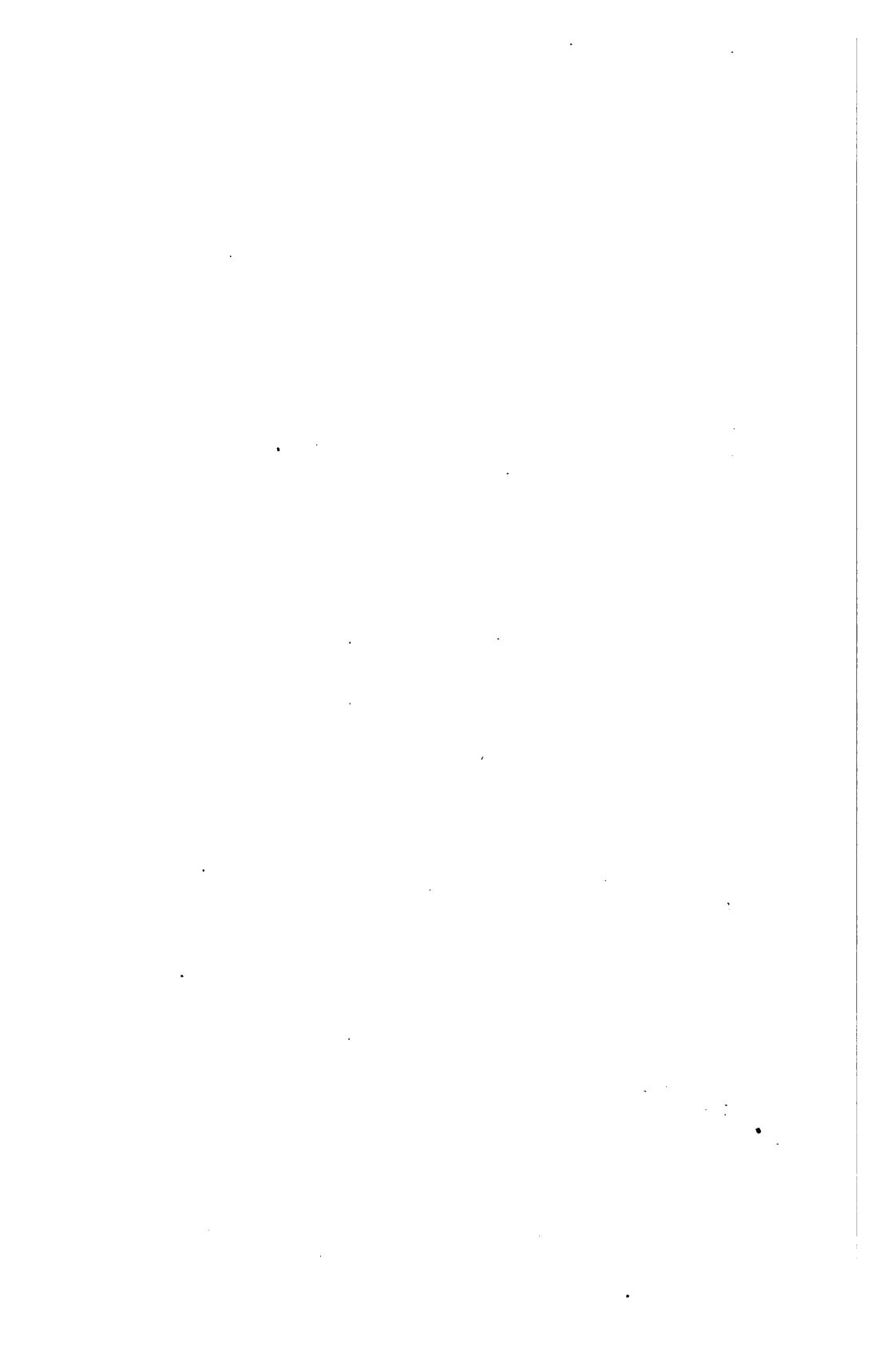
FORM OF APPOINTMENT OF TEMPORARY CHAIRMAN.

At a preliminary meeting of the councillors of the metropolitan borough of _____, held on the _____ day of _____, in accordance with the provisions of section 5 of the Metropolitan Boroughs (First Election and First Meeting) Order in Council, 1900, it was determined that _____ should act as temporary chairman of the first meeting of the council,* or failing him*

Signed

(The person recording the proceedings of the said meeting of the councillors.)

* This sentence must be repeated as often as may be required, having regard to the number of persons appointed.



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